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39(1B)

Rating and Council Tax

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The 2008 Reissue of Volume 39(1B) contains the title RATING AND COUNCIL TAX. Volume 39(1B), together with Volume 39(1A), replace the 4th Edn (Reissue) Volume 39(1) (1998) which can be archived on receipt of Volume 39(1A) and Volume 39(1B).

With the publication of Volume 39(1A) and Volume 39(1B), a complete set of Halsbury's Laws of England now contains the following volumes (bold figures represent reissue volumes):

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Lord High Chancellor of Great Britain
1987–97

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LORD HIGH CHANCELLOR OF GREAT BRITAIN

1987–97

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RATING AND COUNCIL TAX

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Any future updating material will be found in the Current Service and annual Cumulative Supplement to Halsbury's Laws of England.

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REFERENCES AND ABBREVIATIONS

ACT	Australian Capital Territory
A-G	Attorney General
Admin	Administrative Court
Admlty	Admiralty Court
Adv-Gen	Advocate General
affd	affirmed
affg	affirming
Alta	Alberta
App	Appendix
art	article
Aust	Australia
B	Baron
BC	British Columbia
C	Command Paper (of a series published before 1900)
c	chapter number of an Act
CA	Court of Appeal
CAC	Central Arbitration Committee
CA in Ch	Court of Appeal in Chancery
CB	Chief Baron
CCA	Court of Criminal Appeal
CCR	County Court Rules 1981 (SI 1981/1687) as subsequently amended
CCR	Court for Crown Cases Reserved
C-MAC	Courts-Martial Appeal Court
CO	Crown Office
COD	Crown Office Digest
CPR	Civil Procedure Rules 1998 (SI 1998/3132) as subsequently amended (see the Civil Court Practice)
Can	Canada
Cd	Command Paper (of the series published 1900–18)
Cf	compare
Ch	Chancery Division
ch	chapter
cl	clause
Cm	Command Paper (of the series published 1986 to date)
Cmd	Command Paper (of the series published 1919–56)

Cmnd	Command Paper (of the series published 1956–86)
Comm	Commercial Court
Comr	Commissioner
Court Forms (2nd Edn)	Atkin's Encyclopaedia of Court Forms in Civil Proceedings, 2nd Edn. See note 2 post.
Court Funds Rules 1987	Court Funds Rules 1987 (SI 1987/821) as subsequently amended
DC	Divisional Court
DPP	Director of Public Prosecutions
EAT	Employment Appeal Tribunal
EC	European Community
ECJ	Court of Justice of the European Community
EComHR	European Commission of Human Rights
ECSC	European Coal and Steel Community
ECtHR Rules of Court	Rules of Court of the European Court of Human Rights
EEC	European Economic Community
EFTA	European Free Trade Association
EWCA Civ	Official neutral citation for judgments of the Court of Appeal (Civil Division)
EWCA Crim	Official neutral citation for judgments of the Court of Appeal (Criminal Division)
EWHC	Official neutral citation for judgments of the High Court
Edn	Edition
Euratom	European Atomic Energy Community
Ex Ch	Court of Exchequer Chamber
ex p	ex parte
Fam	Family Division
Fed	Federal
Forms & Precedents (5th Edn)	Encyclopaedia of Forms and Precedents other than Court Forms, 5th Edn. See note 2 post.
GLC	Greater London Council
HC	High Court
HC	House of Commons
HK	Hong Kong
HL	House of Lords
IAT	Immigration Appeal Tribunal
ILM	International Legal Materials
INLR	Immigration and Nationality Law Reports
IRC	Inland Revenue Commissioners
Ind	India
Int Rels	International Relations
Ir	Ireland
J	Justice
JA	Judge of Appeal
Kan	Kansas

LA	Lord Advocate
LC	Lord Chancellor
LCC	London County Council
LCJ	Lord Chief Justice
LJ	Lord Justice of Appeal
LoN	League of Nations
MR	Master of the Rolls
Man	Manitoba
n	note
NB	New Brunswick
NI	Northern Ireland
NS	Nova Scotia
NSW	New South Wales
NY	New York
NZ	New Zealand
OHIM	Office for Harmonisation in the Internal Market
OJ	The Official Journal of the European Community published by the Office for Official Publications of the European Community
Ont	Ontario
P	President
PC	Judicial Committee of the Privy Council
PEI	Prince Edward Island
Pat	Patents Court
q	question
QB	Queen's Bench Division
QBD	Queen's Bench Division of the High Court
Qld	Queensland
Que	Quebec
r	rule
RDC	Rural District Council
RPC	Restrictive Practices Court
RSC	Rules of the Supreme Court 1965 (SI 1965/1776) as subsequently amended
reg	regulation
Res	Resolution
revsd	reversed
Rly	Railway
s	section
SA	South Africa
S Aust	South Australia
SC	Supreme Court
SI	Statutory Instruments published by authority
SR & O	Statutory Rules and Orders published by authority
SR & O Rev 1904	Revised Edition comprising all Public and General Statutory Rules and Orders in force on 31 December 1903

SR & O Rev 1948	Revised Edition comprising all Public and General Statutory Rules and Orders and Statutory Instruments in force on 31 December 1948
SRNI	Statutory Rules of Northern Ireland
STI	Simon's Tax Intelligence (1973–1995); Simon's Weekly Tax Intelligence (1996-current)
Sask	Saskatchewan
Sch	Schedule
Sess	Session
Sing	Singapore
TCC	Technology and Construction Court
TS	Treaty Series
Tanz	Tanzania
Tas	Tasmania
UDC	Urban District Council
UKHL	Official neutral citation for judgments of the House of Lords
UKPC	Official neutral citation for judgments of the Privy Council
UN	United Nations
V-C	Vice-Chancellor
Vict	Victoria
W Aust	Western Australia
Zimb	Zimbabwe

NOTE 1. A general list of the abbreviations of law reports and other sources used in this work can be found at the beginning of vol 54(1) (Reissue) Consolidated Table of Cases.

NOTE 2. Where references are made to other publications, the volume number precedes and the page number follows the name of the publication; eg the reference '12 Forms & Precedents (5th Edn) 44' refers to volume 12 of the Encyclopaedia of Forms and Precedents, page 44.

NOTE 3. An English statute is cited by short title or, where there is no short title, by regnal year and chapter number together with the name by which it is commonly known or a description of its subject matter and date. In the case of a foreign statute, the mode of citation generally follows the style of citation in use in the country concerned with the addition, where necessary, of the name of the country in parentheses.

NOTE 4. A statutory instrument is cited by short title, if any, followed by the year and number, or, if unnumbered, the date.

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RATING AND COUNCIL TAX

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1. INTRODUCTION

1. Non-domestic rating and council tax and the funding of local authorities. For each financial year[1], major precepting authorities[2] and local precepting authorities[3] issue to billing authorities[4] precepts, which state the amount payable to them by the billing authority on the basis of calculations made by the precepting authority as its budget requirement for the year[5].

The non-domestic rating of hereditaments[6] and council tax[7] are the principal means whereby a billing authority obtains monies from occupiers and owners of properties in its area[8]. Sums collected by a billing authority for council tax and non-domestic rating of hereditaments in the local non-domestic rating list[9] must be paid, in England, into the collection fund of that authority[10] and, in Wales, into the council fund of that authority[11]. Non-domestic rates payable on hereditaments in the central non-domestic rating list[12] are collected by the Secretary of State or, in Wales, by the Welsh Ministers[13]. Non-domestic rates collected by billing authorities are pooled and placed in a non-domestic rating account held by the Secretary of State or the Welsh Ministers[14], who determine the collection and distribution of such funds in accordance with statutory provisions[15].

1 For these purposes, 'financial year' means any period of 12 months beginning with 1 April: see the Local Government Finance Act 1988 s 145(3); and the Local Government Finance Act 1992 s 116(1). However, for the purposes of the Local Government Finance Act 1992 Pt I (ss 1–69) (as amended) (see para 227 et seq post), 'financial year', except in references to earlier or preceding financial years, does not include the financial year beginning in 1992 or earlier financial years: s 69(1).

2 'Major precepting authority' has the same meaning in the Local Government Finance Act 1988 as in the Local Government Finance Act 1992 Pt I (as amended) (see para 227 et seq post): see the Local Government Finance Act 1988 s 144(2) (substituted by the Local Government Finance Act 1992 s 117(1), Sch 13 para 81(1)). Each of the following is a major precepting authority for the purposes of the Local Government Finance Act 1992 Pt I (as amended), namely:

(1) a county council in England (s 39(1)(a) (amended by the Local Government (Wales) Act 1994 s 35(6)));
(2) the Greater London Authority (Local Government Finance Act 1992 s 39(1)(aa) (added by the Greater London Authority Act 1999 s 82(1), (2)));
(3) a police authority established under the Police Act 1996 s 3 (Local Government Finance Act 1992 s 39(1)(b) (substituted by the Police and Magistrates' Courts Act 1994 s 27(1); and amended by the Police Act 1996 s 103(1), Sch 7 para 1));
(4) a metropolitan county fire and rescue authority (Local Government Finance Act 1992 s 39(1)(d) (amended by the Civil Contingencies Act 2004 s 32(1), Sch 2 Pt 1 paras 10(1), (2)));
(5) a fire and rescue authority in England constituted by a scheme under the Fire and Rescue Services Act 2004 s 2 or a scheme to which s 4 applies (Local Government Finance Act 1992 s 39(1)(da) (added by the Local Government Act 2003 s 83(1); substituted by the Fire and Rescue Services Act 2004 s 53(1), Sch 1 para 81)).

The National Assembly for Wales may by order amend the Local Government Finance Act 1992 s 39(1)(da) (as added and substituted) for the purpose of extending the provision to fire and rescue authorities in Wales: Local Government Act 2003 s 83(2) (amended by the Fire and Rescue Services Act 2004 (Consequential Amendments) (Wales) Order 2005, SI 2005/2929, art 2). However, before making an order under the Local Government Act 2003 s 83(2) (as amended), the National Assembly for Wales must consult such bodies or persons appearing to it to be representative of the interests of local government in Wales, and such other bodies or persons, as it may consider appropriate: s 83(3).

At the date at which this volume states the law, no such order had been made.

In any Act, unless the contrary intention appears, 'England' means, subject to any alteration of boundaries of local government areas, the area consisting of the counties established by the Local Government Act 1972 s 1 (see LOCAL GOVERNMENT vol 29(1) (Reissue) paras 5, 25), Greater London and the Isles of Scilly: Interpretation Act 1978 Sch 1. 'Wales' means the combined area of the counties which were created by the Local Government Act 1972 s 20 (as originally enacted) (see LOCAL GOVERNMENT vol 29(1) (Reissue) paras 5, 41), but subject to any alteration made under s 73 (as amended) (consequential alteration of boundary following alteration of watercourse: see LOCAL GOVERNMENT vol 29(1) (Reissue) para 93): Interpretation Act 1978 Sch 1 (definition substituted by the Local Government (Wales) Act 1994 s 1(3), Sch 2 para 9). As to local government areas see LOCAL

GOVERNMENT vol 29(1) (Reissue) para 23 et seq; and as to boundary changes see LOCAL GOVERNMENT vol 29(1) (Reissue) para 62 et seq. As to Greater London see LONDON GOVERNMENT vol 29(2) (Reissue) para 29; and as to the Greater London Authority see LONDON GOVERNMENT vol 29(2) (Reissue) para 79 et seq. As to Scotland see further CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) para 51 et seq. As to fire and rescue authorities see FIRE SERVICES; LOCAL GOVERNMENT. As to police authorities established under the Police Act 1996 s 3 see POLICE vol 36(1) (2007 Reissue) para 139.

3 'Local precepting authority' has the same meaning in the Local Government Finance Act 1988 as in the Local Government Finance Act 1992 Pt I (as amended) (see para 227 et seq post): see the Local Government Finance Act 1988 s 144(2) (as substituted: see note 2 supra). Each of the following is a local precepting authority for the purposes of the Local Government Finance Act 1992 Pt I (as amended), namely: (1) the sub-treasurer of the Inner Temple (s 39(2)(a)); (2) the under-treasurer of the Middle Temple (s 39(2)(b)); (3) a parish or community council (s 39(2)(c)); (4) the chairman of a parish meeting (s 39(2)(d)); and (5) charter trustees (s 39(2)(e)). As to charter trustees see LOCAL GOVERNMENT vol 29(1) (Reissue) para 101. As to community councils in Wales see LOCAL GOVERNMENT vol 29(1) (Reissue) para 46 et seq. As to the Inner and Middle Temple see LONDON GOVERNMENT vol 29(2) (Reissue) para 32. As to parish councils and parish meetings in England see LOCAL GOVERNMENT vol 29(1) (Reissue) para 30 et seq.

4 The billing authorities are generally the principal local authorities: for the purposes of non-domestic rating see para 5 post; and for the purposes of council tax see para 229 post. In relation to Wales, the principal councils created by the Local Government (Wales) Act 1994 (i e the councils elected for a principal area, being either a county or county borough: see LOCAL GOVERNMENT vol 29(1) (Reissue) para 24) are billing authorities for the purposes of all financial years beginning from 1 April 1996, where 'billing authority' means an authority which is a billing authority for the purposes of the Local Government Finance Act 1992 Pt I (as amended) (council tax) (see para 227 et seq post) and the Local Government Finance Act 1988 Pt III (ss 41–67) (as amended) (non-domestic rating) (see para 7 et seq post): see the Local Government (Wales) Act 1994 s 35(1), (2). After 31 March 1996, the 'new principal councils' had the same functions in relation to council tax and rating (including non-domestic rating) as the old authorities would have had, both in connection with those matters and in relation to any financial year beginning before 1996, if the old authorities had not been abolished: see s 35(4).

5 As to the issuing of precepts see LOCAL GOVERNMENT vol 29(1) (Reissue) para 524 et seq. As to the limitation of precepts issued by authorities see LOCAL GOVERNMENT vol 29(1) (Reissue) para 528.

6 As to non-domestic rating see para 4 et seq post. For the meaning of 'hereditament' see para 33 et seq post.

7 As to council tax see para 227 et seq post.

8 As to local government finance generally see LOCAL GOVERNMENT vol 29(1) (Reissue) para 514 et seq. The other principal source of income for local authorities (i e apart from non-domestic rating and council tax) comes from central government grants: see LOCAL GOVERNMENT vol 29(1) (Reissue) para 531 et seq. As to the special financial provisions applicable to the Greater London Authority see LONDON GOVERNMENT vol 29(2) (Reissue) para 233 et seq. See also the Greater London Authority Act 1999 ss 88–89 (as amended), according to which the Greater London Authority makes separate calculations of the amounts of its council tax for the City of London and the remainder of Greater London; and, for the financial year beginning on 1 April 2007, see the Greater London Authority (Allocation of Grants for Precept Calculations) Regulations 2007, SI 2007/321.

9 As to the local non-domestic rating lists see para 121 et seq post.

10 Collection funds are established and maintained by billing authorities in England under the Local Government Finance Act 1988 s 89 (as amended): see LOCAL GOVERNMENT vol 29(1) (Reissue) para 545 et seq.

11 The provisions of ibid Pt VI (ss 89–94) (as amended) (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 545 et seq) do not apply to a Welsh county council or county borough council, and council funds are established and maintained by billing authorities in Wales under the Local Government (Wales) Act 1994 s 38 (as amended): see the Local Government Finance Act 1988 s 89A (as added); and LOCAL GOVERNMENT vol 29(1) (Reissue) para 547 et seq.

12 As to the central non-domestic rating lists see para 125 et seq post.

13 As to the Secretary of State and the Welsh Ministers see para 3 post.

14 See the Local Government Finance Act 1988 s 60, Sch 8 (as amended); and note 15 infra.

15 Ibid Sch 8 (as amended) contains detailed provisions for the keeping of non-domestic rating accounts, the pooling of contributions thereto and the distribution of funds. The Secretary of State must keep a non-domestic rating account for each chargeable financial year and the Treasury may direct the form of each account and when copies of each account are to be sent to auditing authorities: see Sch 8 para 1 (amended by the Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007, SI 2007/1388, art 3, Sch 1 paras 21, 40(1), (2)). As to the Treasury see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) paras 512–517. Certain items of

account must be credited to the account, and others must be debited to the account: see the Local Government Finance Act 1988 Sch 8 paras 2, 3 (Sch 8 para 2 amended by the Local Government and Housing Act 1989 s 139, Sch 5 paras 41, 79(3); the Local Government Finance Act 1992 s 117(1), Sch 13 para 86; and the Local Government Act 2003 s 127(1), Sch 7 paras 9(1), 26(1), (2)).

Billing authorities are required to pay non-domestic rating contributions to the Secretary of State (except where the contribution rules allow for deductions enabling an authority to retain part (or all) of so much of the total payable to it in respect of the year); payments in respect of a provisional amount of contributions are made during the financial year, and final calculations and any adjustments of payments are made after the year ends: see the Local Government Finance Act 1988 Sch 8 Pt II (paras 4–7) (amended by the Local Government and Housing Act 1989 Sch 5 paras 42, 79(3); the Local Government Finance Act 1992 ss 104, 117(2), Sch 10 para 6, Sch 13 para 86(3), Sch 14; the Local Government Act 2003 ss 70(1)–(3), 71(1)–(4), Sch 7 paras 9(1), 26(1), (3); the Public Audit (Wales) Act 2004 s 66, Sch 2 para 8; and the Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007, SI 2007/1388, Sch 1 paras 21, 40(1), (3)). As from a day to be appointed under the Local Government and Public Involvement in Health Act 2007 s 245(5), the Local Government Finance Act 1988 Sch 8 para 5 (as amended) is further amended by the Local Government and Public Involvement in Health Act 2007 ss 146(3), 241, Sch 9 para 1(1), (2)(g), Sch 18 Pt 9. However, at the date at which this volume states the law, no such day had been appointed. The Local Government Finance Act 1988 Sch 8 para 4(6) (which provides that regulations specifying the basis of calculation of authorities' non-domestic rating contributions must come into force no later than 31 December preceding the financial year to which they relate) does not apply to regulations relating to the year 2008–09: see the Rating (Empty Properties) Act 2007 s 2(1), Sch 1 para 6.

As to the rules for the calculation of non-domestic rating contributions see the Non-Domestic Rating Contributions (England) Regulations 1992, SI 1992/3082 (amended by SI 1992/3259; SI 1993/1496; SI 1993/3082; SI 1994/421; SI 1994/1431; SI 1994/3139; SI 1995/3181; SI 1996/561; SI 1996/3245; SI 1997/3031; SI 1998/3038; SI 1999/3275; SI 2000/3208; SI 2001/3944; SI 2002/3021; SI 2003/3130; SI 2004/3234; SI 2005/3333; SI 2006/3167; SI 2007/3393); and the Non-Domestic Rating Contributions (Wales) Regulations 1992, SI 1992/3238 (amended by SI 1993/1505; SI 1993/3077; SI 1994/547; SI 1994/1742; SI 1994/3125; SI 1995/3235; SI 1996/619; SI 1996/3018; SI 1997/3003; SI 1998/2962; SI 1999/3439; SI 2000/3382; SI 2001/3910; SI 2002/3054; SI 2003/3211; SI 2004/3232; SI 2005/3345; SI 2006/3347; SI 2007/3343). Where an amount becomes payable and has not been paid, it is recoverable in a court of competent jurisdiction: see the Local Government Finance Act 1988 Sch 8 para 7.

As to the provisions relating to distribution see Sch 8 Pt III (paras 8–15) (substituted by the Local Government Finance Act 1992 Sch 10 para 7; amended by the Local Government Act 2003 s 40(1), Sch 2 para 2(1)–(11); the Government of Wales Act 2006 s 160(1), Sch 10 para 21; and the Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007, SI 2007/1388, Sch 1 paras 21, 40(1), (4)–(9)).

2. Historical background. The modern law of rating and council tax is statutory[1] but, with some aspects of rating law having been carried through into the new legislation, much of the case law decided under earlier rating legislation continues to be relevant to its interpretation and to the understanding of underlying principles[2].

Prior to 1990, the principal Act was the General Rate Act 1967, which consolidated earlier legislation from the Poor Relief Act 1601 to the Local Government Act 1966[3]. The 1967 Act imposed liability to rates on occupiers of rateable property and empowered rating authorities to levy rates on unoccupied hereditaments. There was a division of responsibility between rating authorities which set and levied rates, and the valuation officers appointed by the Commissioners for Inland Revenue whose duty it was to prepare and maintain valuation lists for each area.

The General Rate Act 1967 was repealed by the Local Government Finance Act 1988 with effect for financial years beginning on or after 1 April 1990, subject to certain savings[4]. The 1988 Act created a new non-domestic rating system, abolished rating in relation to domestic property[5] and introduced the community charge[6]. The community charge was later abolished and replaced by the council tax with effect from 1 April 1993[7]. Liability to the council tax arises from residence[8] of a dwelling[9]. Dwellings are categorised into bands according to their capital value, and the amount of tax payable is calculated according to the band within which the dwelling falls[10]. The

local authorities' role in setting the rate applicable to non-domestic property was abolished and replaced by a uniform business rate set by the Secretary of State and applicable at the same level throughout the country[11].

1 As to non-domestic rating see para 4 et seq post; and as to council tax see para 227 et seq post.

2 See e g *Williams v Scottish & Newcastle Retail Ltd* [2001] EWCA Civ 185 at [16], [2001] RA 41 at [16], sub nom *Scottish & Newcastle Retail Ltd v Williams (Valuation Officer)* [2001] 1 EGLR 157 at [16] per Robert Walker LJ (*'The law of rating is statutory and ancient [...] Apart from comparatively recent upheavals (in the form of community charge and council tax) in relation to residential property, the body of statute law has shown extraordinary stability. [...] This slow and steady process of evolution means that there is a large volume of case law, some of it quite old, which is still relevant to the understanding of the principles underlying the modern law'*). As to the interpretation e g of 'occupation' in relation to rateable occupation see the cases cited in para 12 post.

3 The General Rate Act 1967 assimilated the rating of Greater London to that of the rest of England and Wales, although the rating in the City of London continued as before under the City of London (Union of Parishes) Act 1907. Rating in the City of London has now been generally assimilated to that of the rest of England and Wales by virtue of the inclusion of the Common Council of the City of London as a billing authority (see para 5 post) although the Common Council maintains a separate City fund under the Local Government Finance Act 1988 ss 93, 94. The Inner Temple and the Middle Temple are to be taken as falling within the area of the Common Council: see s 146(4), (5). As to the Common Council of the City of London see LONDON GOVERNMENT vol 29(2) (Reissue) para 51 et seq; and as to the Inner and Middle Temple see LONDON GOVERNMENT vol 29(2) (Reissue) para 32.

4 As to the repeal of the General Rate Act 1967, which ceased to have general effect any time after 31 March 1990, see the Local Government Finance Act 1988 ss 67(11), 117(1), 149, Sch 13 Pt 1. Notwithstanding this, many of the provisions of the General Rate Act 1967 continued to have effect, subject to amendments, for a number of purposes including those relating to: (1) any rate made under the 1967 Act in respect of any period ending before 1 April 1990; (2) any liability for rates in respect of such a period; and (3) the alteration of any valuation list in force prior to 1 April 1990 pursuant to a proposal made before that date but to which effect had not been given immediately before that date: see the Local Government Finance (Repeals, Savings and Consequential Amendments) Order 1990, SI 1990/776; and the General Rate Act and Related Provisions (Savings and Consequential Provision) Regulations 1990, SI 1990/777. The most notable survival of the General Rate Act 1967 is the definition of 'hereditament' in s 115(1) (repealed), which is invoked for the purposes of the Local Government Finance Act 1988 s 64(1): see para 33 post.

5 For the meaning of 'domestic property' for the purposes of non-domestic rating see para 120 post.

6 As to the community charge see para 227 post. The Local Government Finance Act 1988 long title states (in part) that it is '*[a]n Act to create community charges in favour of certain authorities, to create new rating systems, [...] to abolish existing rates [...] and to provide for the establishment of valuation and community charge tribunals, and for connected purposes*'. Valuation and community charge tribunals were renamed valuation tribunals in 1992: see para 147 note 7 post.

7 See the Local Government Finance Act 1992 s 100. As to council tax see para 227 et seq post.

8 As to residence in relation to liability to pay council tax see para 237 post.

9 For the meaning of 'dwelling' see para 232 post.

10 As to the council tax bands see para 244 post.

11 As to the Secretary of State (and the Welsh Ministers) see para 3 post. As to the calculation of the non-domestic rate see para 11 post.

2. NON-DOMESTIC RATING

(1) LEGISLATION AND ADMINISTRATION

3. The Secretary of State and Welsh Ministers. Despite the fact that older statutes refer to ministers, to specific ministers or to government departments, in law the office of Secretary of State is one and accordingly many modern statutes refer simply to the 'Secretary of State' without reference to a particular department or ministry[1]. The rating legislation confers the functions of central government in relation to the administration of the non-domestic rating system upon the 'Secretary of State' without reference to a particular department or ministry, but in practice the Secretary of State for Communities and Local Government has responsibility for rating[2]. Many statutory functions vested in a Secretary of State or a Minister of the Crown are transferred so as to be exercisable in relation to Wales[3] by the Welsh Ministers[4]. For the purposes of this title, the functions so transferred[5] include, with minor exceptions[6], all functions under the Local Government Finance Act 1988[7], including those relating to non-domestic rating under Part III[8], which must be conducted separately[9] in England and Wales[10].

Central government control is far greater under the current provisions than under previous rating legislation[11] and the Secretary of State (or the Welsh Ministers, as the case may be) have wide powers (which have been extensively exercised) to make orders and regulations under the rating legislation, as a consequence of which the current state of the law has to be ascertained by reference to numerous statutory instruments, as well as to the Acts of Parliament themselves[12]. The power to make an order or regulations under the Local Government Finance Act 1988[13] may be exercised differently in relation to different areas or in relation to different cases or descriptions of case[14]. The power to make such an order or such regulations is exercisable by statutory instrument[15]. The Secretary of State (or the Welsh Ministers, as the case may be) may at any time by order make such supplementary, incidental, consequential or transitional provision as appears to him to be necessary or expedient for the general purposes or any particular purpose of the Local Government Finance Act 1988, or in consequence of any of its provisions or for giving full effect to it[16]. The Secretary of State (or the Welsh Ministers, as the case may be) may also make regulations saving powers for issuing precepts and making levies under earlier legislation which has now been repealed[17], and the Secretary of State may provide for the abolition or modification of powers to levy rates[18]. They also have power to make regulations in relation to payments to and from authorities[19].

Any expenses of the Secretary of State (or of the Welsh Ministers, as the case may be) incurred in consequence of the Local Government Finance Act 1988, and any increase attributable to the 1988 Act in the sums payable out of money so provided under any other enactment must be paid out of money provided by Parliament[20]; and any sums received by the Secretary of State (or by the Welsh Ministers, as the case may be) in consequence of the 1988 Act must be paid into the Consolidated Fund[21].

In circumstances where:

(1) the Secretary of State (or the Welsh Ministers, as the case may be) serves a notice on a relevant authority[22] or relevant officer[23] requiring it or him to supply to the Secretary of State (or the Welsh Ministers, as the case may be) information specified in the notice[24];

(2) the information is required by the Secretary of State (or the Welsh Ministers, as the case may be) for the purpose of deciding whether to exercise his powers (and how to perform his functions) under the Local Government Finance Act 1988[25]; and

(3) the information is not personal information[26],

the authority or officer must supply the information required, and must do so in such form and manner and at such time as the Secretary of State (or the Welsh Ministers, as the case may be) specifies in the notice[27]. In deciding whether to exercise his powers, and how to perform his functions, under the Local Government Finance Act 1988 the Secretary of State (or the Welsh Ministers, as the case may be) may also take into account any other information available to him, whatever its source and whether or not obtained under a provision contained in or made under the 1988 Act or any other Act[28].

1 In any enactment, 'Secretary of State' means one of Her Majesty's principal Secretaries of State: see the Interpretation Act 1978 s 5, Sch 1. The office of Secretary of State is a unified office, and in law each Secretary of State is capable of performing the functions of all or any of them: see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) para 355.

2 As to the Secretary of State in relation to council tax see para 228 post.

3 For the meaning of 'Wales' see para 1 note 2 ante.

4 These functions were previously transferred to the National Assembly for Wales by Order in Council under the Government of Wales Act 1998 s 22 (see the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, arts 2, 3, Sch 1) or, in the case of functions conferred under enactments subsequent to the Government of Wales Act 1998, by virtue of particular provision made under those enactments: see the Government of Wales Act 2006 s 162(1), Sch 11 para 30; and CONSTITUTIONAL LAW AND HUMAN RIGHTS. Further transfers of ministerial functions to the Welsh Ministers may be effected by Order in Council pursuant to s 58, Sch 3 paras 1–8. As to the exercise of transferred functions and the bringing of subordinate legislation made by the Welsh Ministers before the National Assembly for Wales see Sch 11 paras 33–35 (in the case of functions transferred to the Assembly by Order in Council under the Government of Wales Act 1998 s 22) or the Government of Wales Act 2006 Sch 3 para 9 (in the case of functions transferred to the Welsh Ministers by Order in Council under s 58); and CONSTITUTIONAL LAW AND HUMAN RIGHTS. As to the National Assembly for Wales see CONSTITUTIONAL LAW AND HUMAN RIGHTS.

5 Ie by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, Sch 1 (as amended).

6 Ie except the function of the appropriate minister under the Local Government Finance Act 1988 s 118 (as amended) (see the text and note 18 infra) and the Treasury function under s 60, Sch 8 para 1(2) (see para 1 note 15 ante): see the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, Sch 1 (as amended). As to the Treasury see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) paras 512–517.

7 See ibid Sch 1 (as amended). The functions of the Secretary of State under the Local Government Act 2003 Pt 4 (ss 41–59) in relation to BID arrangements (see para 220 et seq post) were exercised in Wales by the National Assembly for Wales (see s 58); and the relevant Assembly functions were transferred to the Welsh Ministers by virtue of the Government of Wales Act 2006 Sch 11 para 30 (see note 4 supra).

8 Ie the Local Government Finance Act 1988 Pt III (ss 41–67) (as amended) (non-domestic rating provisions): see para 7 et seq post.

9 Ie as well as those functions under ibid Pt V (ss 76–88C) (as amended) (grants): see LOCAL GOVERNMENT vol 29(1) (Reissue) para 532 et seq.

10 See ibid s 140(1) (as amended); and para 4 post. For the meaning of 'England' see para 1 note 2 ante.

11 Ie under the General Rate Act 1967 (repealed) and earlier enactments (as to which see para 2 ante).

12 Where subordinate legislation has been made under the main primary legislation, a reference will be given but the detail of current rating law residing in secondary legislation, much of which is technical, is set out in this title only where it furthers the exposition of a principle of law.

13 As to orders, rules and regulations under the Local Government Finance Act 1992 see para 228 post.

14 Local Government Finance Act 1988 s 143(1). An order or regulations under the Local Government Finance Act 1988 may include such supplementary, incidental, consequential or transitional provisions as appear to the Secretary of State, the Minister of Agriculture, Fisheries and Food or the Treasury (as the case may be) to be necessary or expedient: see s 143(2) (amended by the Local Government and Housing Act 1989 s 139, Sch 5 paras 72, 79(3)). The functions of the former Minister of Agriculture, Fisheries and Food are now exercised by the Secretary of State for Environment, Food and Rural Affairs and, where applicable, the Welsh Ministers: see AGRICULTURE AND FISHERIES vol 1(2) (2007 Reissue) para 100.

15 Local Government Finance Act 1988 s 143(3) (amended by the Local Government and Rating Act 1997 s 1, Sch 1 para 6(a); and the Local Government Act 2003 s 127(1), Sch 7 paras 9(1), 24(1), (2)). The Local Government Finance Act 1988 s 143(3) (as amended) is subject to s 143(3A)–(9AA) (as added and amended): see s 143(3) (as so amended). Accordingly, the power to make an order or regulations as mentioned in the text is exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament (see s 143(3) (as so amended)), except as regards any power of

the Welsh Ministers to make an order or regulations under the Local Government Finance Act 1988, when s 143(3) (as amended) has effect without the words 'subject to annulment in pursuance of a resolution of either House of Parliament' (see s 143(4A) (added by the Local Government Act 2003 Sch 7 paras 9(1), 24(1), (4))). As to the bringing of subordinate legislation made by the Welsh Ministers before the National Assembly for Wales generally see the Government of Wales Act 2006 Sch 11 paras 33–35 (as amended); and CONSTITUTIONAL LAW AND HUMAN RIGHTS.

The power to make an order under the Local Government Finance Act 1988 s 43(6B)(c)(ii) (as added) (see para 76 post) is exercisable by statutory instrument, but no such order is to be made unless a draft of the order has been laid before and approved by resolution of each House of Parliament: s 143(3A) (added by the Local Government and Rating Act 1997 Sch 1 para 6(b)). The power to make an order under the Local Government Finance Act 1988 s 45(4A) (as added) (see para 79 post) is exercisable by statutory instrument, but no such order is to be made, in the case of an order relating to England, unless a draft of the order has been laid before and approved by resolution of each House of Parliament or, in the case of an order relating to Wales, unless a draft of the order has been laid before and approved by resolution of the National Assembly for Wales: s 143(3B) (added by the Rating (Empty Properties) Act 2007 s 1(3)). The power to make an order under the Local Government Finance Act 1988 Sch 6 para 3 (as amended; prospectively repealed) is exercisable by statutory instrument, and no such order may be made unless a draft of it has been laid before and approved by resolution of each House of Parliament: s 143(8). If an order under Sch 6 para 3 (as amended; prospectively repealed) would, apart from this provision, be treated for the purposes of the standing orders of either House of Parliament as a hybrid instrument, it must proceed in that House as if it were not such an instrument: s 143(11). As from a day to be appointed under the Local Government Act 2003 s 128(6), the Local Government Finance Act 1988 s 143(8), (11) is repealed by the Local Government Act 2003 Sch 8 Pt 1. However, at the date at which this volume states the law, no such day had been appointed. The power to make an order under the Local Government Finance Act 1988 s 56(2), Sch 7 para 5 (as amended) (see para 86 note 6 post) is exercisable as there mentioned: s 143(9). The power to make an order under s 57 (as substituted), Sch 7A para 5 (as added and amended) (see para 83 post) is exercisable by statutory instrument, but no such order is to be made unless a draft of it has been laid before and approved by resolution of each House of Parliament: s 143(9A) (added by the Local Government and Housing Act 1989 s 139, Sch 5 paras 72, 79(3)). The power of the Secretary of State to make an order under the Local Government Finance Act 1988 s 62, Sch 9 para 5G (as added) (see para 141 post) is exercisable by statutory instrument, but no such order is to be made by him unless a draft of it has been laid before and approved by resolution of each House of Parliament: s 143(9AA) (added by the Local Government Act 2003 Sch 7 paras 9(1), 24(1), (5)).

The power to make regulations, in relation to England, under the Local Government Finance Act 1988 s 57A (as added and amended) (see para 84 post) or, in relation to Wales, under s 58 (as amended) (see para 85 post) is exercisable by statutory instrument, but no such regulations are to be made unless a draft of them has been laid before and approved by resolution of each House of Parliament: s 143(4) (amended by the Local Government and Housing Act 1989 s 194, Sch 5 paras 72, 79(3), Sch 12 Part II; and, in relation to England only, by the Local Government Act 2003 Sch 7 paras 9(1), 24(1), (3)). As from a day to be appointed, the reference in the Local Government Finance Act 1988 s 143(4) (as amended) to s 58 (as amended) is repealed in relation to Wales and the reference to s 57A (as added and amended) added: see s 143(4) (as so amended; prospectively further amended, in relation to Wales, by the Local Government Act 2003 Sch 7 paras 9(1), 24(1), (3)). However, at the date at which this volume states the law, no such day had been appointed. The power to make regulations under the Local Government Finance Act 1988 s 66A (as added) (see para 64 post) is exercisable by statutory instrument, but no such regulations are to be made unless, in the case of regulations relating to England, a draft of the regulations has been laid before and approved by resolution of each House of Parliament or, in the case of regulations relating to Wales, a draft of the regulations has been laid before and approved by resolution of the National Assembly for Wales: s 143(4ZA) (added by the Rating (Empty Properties) Act 2007 s 2(1), Sch 1 para 4(2)).

16 Local Government Finance Act 1988 s 147(1). Such orders may in particular make provision for amending, repealing or revoking (with or without savings) any provision of an Act passed before or in the same session as the Local Government Finance Act 1988, or of an instrument made under an Act before the passing of the 1988 Act, and for making savings or additional savings from the effect of any amendment or repeal made by the 1988 Act: s 147(2). Any provision that may be made under this power is to be in addition and without prejudice to any other provision of the Local Government Finance Act 1988: s 147(3). No other provision of the Local Government Finance Act 1988 is to be construed as prejudicing the generality of the powers conferred by s 147: s 147(4). For these purposes, 'Act' includes a private or local Act: see s 147(5). As to the orders so made see the Local Government Finance Act 1988 (Miscellaneous Amendments and Repeals) Order 1990, SI 1990/10; the Local Government Finance (Garden Squares) (Consequential Amendments) Order 1990, SI 1990/525 (amended by SI 1993/616); the Local Government Finance (Repeals, Savings and Consequential Amendments) Order 1990,

SI 1990/776; the Local Government Finance (Consequential Amendments) (Debt Administration) Order 1990, SI 1990/1114; the Local Government Finance (Miscellaneous Amendments and Repeal) Order 1990, SI 1990/1285; the Rates and Precepts (Final Adjustments) Order 1991, SI 1991/185 (amended in relation to England only by SI 1999/2629; in relation to Wales only by SI 2000/975); the Local Government Finance (Miscellaneous Provisions) (England) Order 1991, SI 1991/241; the Local Government Finance (Repeals and Consequential Amendments) Order 1991, SI 1991/1730; the Rates and Precepts (Final Adjustments) (Amendment) (England) Order 1999, SI 1999/2629; the Rates and Precepts (Final Adjustments) (Amendment) (Wales) Order 2000, SI 2000/975; and the Town and Country Planning (Blight Provisions) (Wales) Order 2005, SI 2005/367.

17 See the Local Government Finance Act 1988 s 117(8).

18 See ibid s 118 (as amended); and LOCAL GOVERNMENT vol 29(1) (Reissue) para 530.

19 See ibid s 141 (as amended); and LOCAL GOVERNMENT vol 29(1) (Reissue) para 543.

20 Ibid s 148(1).

21 Ibid s 148(2). As to the Consolidated Fund see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) para 711 et seq; PARLIAMENT vol 34 (Reissue) para 952 et seq.

22 For these purposes, each of the following is a relevant authority, namely: a billing authority, a precepting authority or a functional body within the meaning of the Greater London Authority Act 1999 (see LONDON GOVERNMENT vol 29(2) (Reissue) para 213 et seq): Local Government Finance Act 1988 s 139A(5) (s 139A added by the Local Government and Housing Act 1989 Sch 5 para 68; and the Local Government Finance Act 1988 s 139A(5) (as so added) amended by the Local Government Finance Act 1992 s 117(1), Sch 13 para 77(1); and the Greater London Authority Act 1999 s 109(2)). As to billing authorities see para 5 post; and as to precepting authorities see para 1 ante.

23 Ie a proper officer within the meaning of the Local Government Act 1972 (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 336) of a relevant authority: see the Local Government Finance Act 1988 s 139A(6) (s 139A as added (see note 22 supra); s 139A(6) substituted by the Local Government Finance Act 1992 Sch 13 para 77(2)).

24 Local Government Finance Act 1988 s 139A(1)(a) (as added: see note 22 supra).

25 Ibid s 139A(1)(b) (as added: see note 22 supra).

26 Ibid s 139A(1)(c) (as added: see note 22 supra). Personal information is information which relates to an individual (living or dead) who can be identified from that information or from that and other information supplied to any person by the authority or officer concerned; and personal information includes any expression of opinion about the individual and any indication of the intentions of any person in respect of the individual: see s 139A(7) (as so added). As to the meaning of 'person' see para 6 note 16 post.

27 Ibid s 139A(2) (as added: see note 22 supra). If an authority or officer fails to comply with s 139A(2) (as added), the Secretary of State may assume the information required to be such as he sees fit; and in such a case the Secretary of State may decide in accordance with the assumption whether to exercise his powers, and how to perform his functions, under the Local Government Finance Act 1988: s 139A(3) (as so added).

28 Ibid s 139A(4) (as added: see note 22 supra).

4. Geographical application of the legislation. The rating legislation extends to England and Wales[1], but not to Northern Ireland[2]. Certain provisions apply to Scotland[3].

Certain statutory provisions must be read as applying separately, and must be administered separately, in England and Wales[4]. In particular, separate central non-domestic rating lists must be compiled and maintained separately for England and Wales[5]; separate estimates must be made for the purpose of determining non-domestic rating multipliers[6]; and separate non-domestic rating accounts must be kept[7]. Any power conferred by the Local Government Finance Act 1988 on the Secretary of State or the Treasury[8] may be exercised differently for England and Wales, whether or not it is exercised separately[9]. Similarly, any provision of the Local Government and Housing Act 1989 which confers a power on the Secretary of State to make regulations, orders, rules or determinations or to give directions or specify any matter, may be exercised differently for England and Wales, whether or not it is exercised separately[10].

1 For the meanings of 'England' and 'Wales' see para 1 note 2 ante.

2 See the Local Government Finance Act 1988 s 151(3); and the Local Government and Housing Act 1989 s 195(6). The Local Government and Housing Act 1989 applies to the Isles of Scilly subject to such exceptions, adaptations and modifications as the Secretary of State may direct: s 193(1). The power to

make such an order is exercisable by statutory instrument which is subject to annulment in pursuance of a resolution of either House of Parliament: s 193(2). As to the Secretary of State see para 3 ante.

3 See eg the Local Government Finance Act 1988 ss 150, 151(1), (2); and the Local Government and Housing Act 1989 s 195(4), (5).

4 The Local Government Finance Act 1988 Pt III (ss 41–67) (as amended) and Schs 4A–9 (as added and amended) must be read as applying separately and be administered separately in England and Wales: s 140(1) (s 140(1), (3) amended by the Local Government Finance Act 1992 s 117(1), Sch 13 para 78). The Local Government Finance Act 1988 Pt III (as amended) must be construed so that references to authorities are read as references to those in England or Wales, as the case may be: s 140(3) (as so amended).

5 Ibid s 140(2)(a). As to local non-domestic rating lists see para 121 et seq post.

6 Ibid s 140(2)(b). The text refers to estimates to be made under s 56, Sch 7 para 5(6), (7) (see para 86 note 6 post): see s 140(2)(b).

7 Ibid s 140(2)(c).

8 As to the Treasury see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) paras 512–517.

9 Local Government Finance Act 1988 s 140(4). This provision is without prejudice to the generality of s 143(1) (power to make orders or regulations) (see para 3 ante): see s 140(4).

10 Local Government and Housing Act 1989 s 191(1). This is without prejudice to s 190(1), and to any other provision of the 1989 Act or of any Act amended by the 1989 Act by virtue of which powers may be exercised differently in different cases or in any other circumstances: s 191(2).

Statutory references to a rate or rateable value or any other factor connected with rating may, by regulations, be interpreted as references to some other factor (whether or not connected with rating): see s 149. See eg the References to Rating (Housing) Regulations 1990, SI 1990/434 (amended by SI 1990/701); and the Levying Bodies (General) Regulations 1992, SI 1992/2903 (amended by SI 2001/3649).

5. Billing authorities. In relation to England[1], a district council[2] or London borough council[3], the Common Council of the City of London[4] or the Council of the Isles of Scilly and, in relation to Wales[5], a county council or county borough council[6] are billing authorities[7] charged with the collection and recovery[8] of non-domestic rates[9] for each chargeable financial year[10].

Part 4 of the Local Government Act 2003[11] also confers functions on a billing authority[12] in relation to the imposition, administration, collection, recovery and application of a levy raised from non-domestic ratepayers in order to provide for business improvement districts[13].

1 For the meaning of 'England' see para 1 note 2 ante.

2 As to local government areas and authorities in England and their councils generally see LOCAL GOVERNMENT vol 29(1) (Reissue) para 25 et seq.

3 As to London boroughs and their councils see LOCAL GOVERNMENT vol 29(1) (Reissue) para 24 et seq; and LONDON GOVERNMENT vol 29(2) (Reissue) para 30 et seq.

4 The Inner Temple and the Middle Temple are to be taken to fall within the area of the Common Council: Local Government Finance Act 1992 s 69(3). As to the Court of Common Council see LONDON GOVERNMENT vol 29(2) (Reissue) para 51 et seq; and as to the Temples see LONDON GOVERNMENT vol 29(2) (Reissue) para 32 et seq.

5 For the meaning of 'Wales' see para 1 note 2 ante.

6 As to principal councils see para 1 note 4 ante. As to local government areas and authorities in Wales and their councils generally see LOCAL GOVERNMENT vol 29(1) (Reissue) para 41 et seq.

7 Local Government Finance Act 1992 s 1(2) (substituted by the Local Government (Wales) Act 1994 s 35(5)). 'Billing authority' has the same meaning in the Local Government Finance Act 1988 as in the Local Government Finance Act 1992 Pt I (ss 1–69) (as amended) (see para 227 et seq post): see the Local Government Finance Act 1988 s 144(2) (substituted by the Local Government Finance Act 1992 s 117(1), Sch 13 para 81(1)). See also para 229 post. The functions of a billing authority in relation to the administration and enforcement of non-domestic rates may, to the prescribed extent, be exercised by, or by the employees of, such person as may be authorised to exercise them by the authority whose functions they are: see the Local Authorities (Contracting Out of Tax Billing, Collection and Enforcement Functions) Order 1996, SI 1996/1880, art 49.

8 As to the recovery of rates, and demand notices, see para 170 et seq post.

9 As to non-domestic rating see para 7 et seq post. For corresponding provisions relating to the recovery of council tax see para 292 et seq post.

10 For the purposes of the Local Government Finance Act 1988, chargeable financial years are financial years beginning in 1990 and subsequent years: s 145(1). For the meaning of 'financial year' for these purposes see para 1 note 1 ante.

11 Ie the Local Government Act 2003 Pt 4 (ss 41–59) (including regulations made under s 48): see para 220 et seq post. Expressions which are used in Pt 4 and in the Local Government Finance Act 1988 Pt III (ss 41–67) (as amended) (non-domestic rating provisions) (see para 7 et seq post) have the same meaning in the Local Government Act 2003 Pt 4 as they have in the Local Government Finance Act 1988 Pt III (as amended): see the Local Government Act 2003 s 59(2). Part 4 binds the Crown: see s 57; and see the Business Improvement Districts (England) Regulations 2004, SI 2004/2443, reg 15, Sch 4 para 11; and the Business Improvement Districts (Wales) Regulations 2005, SI 2005/1312, reg 15, Sch 4 para 11.

12 For these purposes, 'billing authority' means, in relation to England, a district council, a unitary county council, a London borough council, the Common Council of the City of London or the Council of the Isles of Scilly; and, in relation to Wales, a county council or county borough council: Local Government Act 2003 s 59(1). 'Unitary county council' means a county council which is the council for a county in which there are no district councils: s 59(1).

13 See para 220 et seq post. The functions of a billing authority conferred by or under ibid Pt 4, or regulations under s 48, in relation to the imposition, administration, collection, recovery and application of such a levy may, to the prescribed extent, be exercised by such contractor as may be authorised to exercise them by the billing authority whose functions they are: see the Local Authorities (Contracting Out of BID Levy Billing, Collection and Enforcement Functions) Order 2005, SI 2005/215, art 2.

6. Appointment and functions of valuation officers. The Commissioners for Revenue and Customs[1] must appoint a valuation officer[2] for each billing authority[3] and a central valuation officer[4]. A valuation officer for a billing authority must compile and maintain local non-domestic rating lists[5], and the central valuation officer must compile and maintain the central non-domestic rating lists[6]. The remuneration of, and any expenses incurred by, valuation officers in carrying out their functions in relation to non-domestic rating[7], including the remuneration and expenses of persons, whether or not in the service of the Crown, employed to assist them, are to be paid out of money provided by Parliament[8].

Valuation officers may disclose information to each other to assist in the performance of their statutory functions. Hence, where a rating official[9] requests another rating official to disclose any information to him in order to assist him in the performance of his statutory functions, the other official must not be prevented from so disclosing the information merely because it is held by him in connection with his statutory functions[10]. Valuation officers may request information from owners[11] or occupiers[12] of hereditaments[13] if the officers believe it will assist them in carrying out their functions[14]. They may also enter on, survey and value a hereditament on giving at least 24 hours' notice of the proposed entry[15]. A person[16] may require a valuation officer to provide access to specified information upon request[17].

1 As to the Commissioners for Revenue and Customs see CUSTOMS AND EXCISE vol 12(3) (2007 Reissue) para 900 et seq.

2 Unless the context otherwise requires, references to valuation officers in the Local Government Finance Act 1988 Pt III (ss 41–67) (as amended) are to valuation officers for billing authorities and the central valuation officer: s 67(2), (13) (s 67(2) amended by the Local Government Finance Act 1992 s 117(1), Sch 13 para 71). As to billing authorities see para 5 ante. The position of the valuation officer in rating is that 'he is a neutral official charged with the statutory and recurring duty of bringing into existence a valuation list and maintaining its contents in correct and legal form': *Society of Medical Officers of Health v Hope (Valuation Officer)* [1960] AC 551 at 565, [1960] 1 All ER 317 at 322, HL, per Lord Radcliffe. See also *R v Paddington Valuation Officer, ex p Peachey Property Corpn Ltd* [1964] 3 All ER 200, [1964] 1 WLR 1186, DC; affd [1966] 1 QB 380, [1965] 2 All ER 836, CA.

3 Local Government Finance Act 1988 s 61(1)(a).

4 Ibid s 61(1)(b).

5 See ibid s 41 (as amended); and para 121 et seq post.

6 See ibid s 52 (as amended); and para 125 et seq post.

7 Ie their functions under ibid Pt III (ss 41–67) (as amended) (see para 7 et seq post): see s 61(2).

8 Ibid s 61(2).

9 For these purposes, 'rating official', in relation to England and Wales, means a valuation officer; and 'valuation officer' means a person appointed under ibid s 61(1)(a) or s 61(1)(b) (see the text and notes 1–4 supra): Non-Domestic Rating (Information) Act 1996 s 1(2). For the meanings of 'England' and 'Wales' see para 1 note 2 ante.
10 Ibid s 1(1). For these purposes, 'statutory functions' means, in relation to a valuation officer, functions under the Local Government Finance Act 1988 Pt III (as amended) (see para 7 et seq post): Non-Domestic Rating (Information) Act 1996 s 1(2).
11 For the meaning of 'owner' see para 13 post.
12 For the meaning of 'occupier' see para 13 post.
13 For the meaning of 'hereditament' see para 33 et seq post.
14 See the Local Government Finance Act 1988 s 62, Sch 9 paras 5–6 (as amended); Sch 9 para 6A (as added); and paras 141–142 post.
15 See ibid Sch 9 para 7; and para 143 post.
16 Unless the contrary intention appears, 'person' includes a body of persons corporate or unincorporated: see the Interpretation Act 1978 s 5, Sch 1.
17 See the Local Government Finance Act 1988 Sch 9 para 8 (as substituted and amended), Sch 9 para 9 (as added); and paras 144–145 post.

(2) OUTLINE OF NON-DOMESTIC RATING SYSTEM

7. Rateable property. Rateable property consists of relevant non-domestic[1] and composite hereditaments[2] entered in the local rating lists[3], and property of certain bodies which the Secretary of State (or the Welsh Ministers, as the case may be)[4] has designated by regulation[5] to be entered in a central non-domestic rating list[6]. Rates are chargeable on: (1) lands[7]; (2) coal mines[8]; (3) mines of any other description, other than a mine of which the royalty or dues are for the time being wholly reserved in kind[9]; and (4) rights to use land for the purpose of exhibiting advertisements[10] or for the purpose of operating meters which measure a supply of gas or electricity (or some other specified service) and which are not operated by consumers[11]. Moorings let out for non-domestic purposes may be rateable[12].

Hereditaments in a number of classes are exempt from non-domestic rates[13], and in other cases hereditaments have been relieved of the full burden of rates by various means[14]. Exemptions from or privileges in respect of rating are in some instances conferred by local Acts[15] and those exemptions and privileges may be continued by regulations made by the Secretary of State. The power to continue such privileges is subject to limitations[16].

Unoccupied property is also liable to be rated[17], and a mechanism exists whereby newly completed or altered buildings are deemed to be liable to be rated[18].

1 Ie a non-domestic hereditament falling within the Local Government Finance Act 1988 s 64(4) (as amended): see para 33 post. For the meaning of 'hereditament' see para 33 et seq post.
2 For the meaning of 'composite hereditament' see para 33 note 6 post.
3 As to local non-domestic rating lists see para 121 et seq post.
4 As to the Secretary of State and the Welsh Ministers see para 3 ante.
5 See the Local Government Finance Act 1988 s 53(1) (as amended); the Central Rating List (Wales) Regulations, SI 2005/422 (as amended); the Central Rating List (England) Regulations 2005, SI 2005/551 (as amended); and paras 126–127 post.
6 As central non-domestic rating lists see para 125 et seq post.
7 See the Local Government Finance Act 1988 s 64(4)(a); and para 33 post.
8 See ibid s 64(4)(b); and see para 33 post.
9 See ibid s 64(4)(c); and see para 33 post.
10 See ibid s 64(2), (4)(e) (s 64(4)(e) as amended); and see paras 31–33 post.
11 See ibid s 64(2A) (as added), s 64(4)(e) (as amended); and see para 31 post.
12 See ibid s 64(3A) (as added); and para 34 post.
13 As to the exemptions from non-domestic rating see para 37 et seq post.
14 See para 70 et seq post.
15 See the Local Government Finance Act 1988 s 51, Sch 5 para 20; and para 37 post. In *Wiltshire County Valuation Committee v Boyce* [1948] 2 KB 125, [1948] 1 All ER 694, CA, a special exemption, expressed

to be perpetual and granted by a local and personal Act to the owner of a particular piece of land in respect of all parochial taxes and duties whatsoever, was held to exempt the land from the general rate by virtue of the Rating and Valuation Act 1925 s 64(1)(b) (repealed), on the principle *generalia specialibus non derogant* ('general things do not derogate from special things'), and the making of a scheme under s 64(2) (repealed) was not a condition for the continuance of the exemption. Although this case was decided prior to the coming into force of the Local Government Finance Act 1988, as to the historical development of rating law and the continuing relevance of the old case law to the current statutory regime see para 2 ante.

16 See para 37 et seq post.

17 See the Local Government Finance Act 1988 ss 45–46 (as amended); and para 62 et seq post.

18 See ibid s 46A(1) (as added), Sch 4A (as added and amended); and para 65 et seq post.

8. Valuation for rating. Rates are assessed on the rateable value of the hereditament[1]. The amount depends whether the hereditament is: (1) a non-domestic hereditament (none of which consists of domestic property and none of which is exempt from local non-domestic rating)[2]; (2) a composite hereditament[3] (none of which is exempt from local non-domestic rating)[4]; or (3) a non-domestic hereditament which is partially exempt from local non-domestic rating[5].

1 The Local Government Finance Act 1988 s 56, Sch 6 (as amended) has effect to determine the rateable value of non-domestic hereditaments: see Sch 6 para 1 (as amended); and para 87 et seq post. For the meaning of 'hereditament' see para 33 et seq post.

2 See ibid Sch 6 para 2(1) (as amended); and para 87 post. Provisions as to the method of valuation for non-domestic property are set out in Sch 6 (as amended) (see para 87 et seq post), s 56, Sch 7 (as amended) (see para 86 note 6 post). Special transitional provision is also made: see para 83 et seq post. For the meaning of 'domestic property' in relation to non-domestic rating see para 120 post.

3 For the meaning of 'composite hereditament' see para 33 note 6 post.

4 See the Local Government Finance Act 1988 Sch 6 para 2(1A) (as added); and para 87 post.

5 See ibid Sch 6 para 2(1B) (as added); and para 87 post.

9. Rating lists. The Local Government Finance Act 1988 makes provision for three types of rating lists: (1) non-domestic rating lists[1]; (2) central non-domestic rating lists[2]; and (3) rural settlement lists[3]. For the purpose of deciding what is shown in a list for a particular day the state of the list as it has effect[4] immediately before the day ends is to be treated as having been its state throughout the day[5].

When ascertained, values for rating purposes are embodied in local non-domestic rating lists prepared by valuation officers for billing authorities[6]. A local rating list must contain such particulars as may be prescribed by regulations made by the Secretary of State (or the Welsh Ministers, as the case may be)[7] with respect to every relevant non-domestic hereditament[8] in the billing authority's area[9].

The central valuation officer[10] must compile and maintain central non-domestic rating lists[11]. The contents of a central non-domestic rating list are prescribed by regulations made by the Secretary of State with a view to securing the central rating en bloc of certain hereditaments[12].

Each billing authority must compile and maintain a rural settlement list[13]. This enables certain hereditaments to be entitled to a reduction of the non-domestic rate[14].

1 As to local non-domestic rating lists see para 121 et seq post.

2 As to central non-domestic rating lists see para 125 et seq post.

3 As to rural settlement lists see para 124 post. Unless the context otherwise requires, references in the Local Government Finance Act 1988 to 'lists' are to local and central non-domestic rating lists: s 67(1), (13).

4 'Effect' here includes any effect which is retrospective by virtue of an alteration of the list: ibid s 67(8). As to the alteration of rating lists see para 128 et seq post.

5 Ibid s 67(8).

6 See ibid s 41 (as amended) (cited in para 121 post), s 41A (as added) (cited in para 122 post). Such lists must be compiled in accordance with the provisions of Pt III (ss 41–67) (as amended) (see paras 7 et seq

ante, 10 et seq post). As to the contents of local non-domestic rating lists see s 42 (as amended); and para 123 post. As to billing authorities see para 5 ante; and as to valuation officers generally see para 6 ante.

7 See e g the Non-Domestic Rating (Miscellaneous Provisions) Regulations 1989, SI 1989/1060 (as amended) (see paras 104, 123 post); the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659 (as amended); the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758 (as amended); and para 123 et seq post. As to the Secretary of State and the Welsh Ministers see para 3 ante.

8 As to relevant non-domestic hereditaments see para 7 ante. For the meaning of 'hereditament' see para 33 et seq post.

9 See the Local Government Finance Act 1988 s 42 (as amended); and para 123 post.

10 As to the central valuation officer see para 6 ante.

11 See the Local Government Finance Act 1988 s 52 (as amended); and para 125 post. Such lists must be compiled in accordance with the provisions of Pt III (as amended) (see paras 7 et seq ante, 10 et seq post). As to the contents of central rating lists see s 53 (as amended); and paras 126–127 post. As to the compilation of central non-domestic rating lists see para 125 post.

12 See e g the Central Rating List (England) Regulations 2005, SI 2005/551 (as amended); the Central Rating List (Wales) Regulations 2005, SI 2005/422 (as amended); and para 127 post.

13 See the Local Government Finance Act 1988 s 42A (as added and amended); the Non-Domestic Rating (Rural Settlements) (England) Order 1997, SI 1997/2792 (as amended); the Non-Domestic Rating (Rural Settlements) (England) Order 1998, SI 1998/393; the Non-Domestic Rating (Rural Settlements) (England) (No 2) Order 1998, SI 1998/2836; the Non-Domestic Rating (Rural Settlements) (England) Order 1999, SI 1999/3158; the Non-Domestic Rating (Designation of Rural Areas) (England) Order 2001, SI 2001/3916; the Non-Domestic Rating (Small Business Relief) (Wales) Order 2006, SI 2006/3345 (as amended); and para 124 post.

14 See para 76 post.

10. Valuation list procedure; appeals. There is no express power conferred upon valuation officers[1] to alter non-domestic rating lists[2], but the duty imposed upon them to maintain a rating list once it has been compiled[3] must, by inference, allow them to alter a list[4]. A valuation officer may alter a list before it comes into force[5]. Alterations to local lists and central lists are governed by regulations made by the Secretary of State (or the Welsh Ministers, as the case may be)[6]. Proposals[7] to alter lists may be made by billing authorities[8] and by interested persons[9]. Alterations to lists generally[10] take effect from the day on which the circumstances giving rise to the alteration occurred[11].

Where there is disagreement about an alteration, an appeal may be made to a valuation tribunal constituted and appointed in accordance with regulations made by the Secretary of State (or the Welsh Ministers, as the case may be)[12]. There is a right of appeal to the Lands Tribunal[13] from a decision or order of a valuation tribunal, with a further appeal to the Court of Appeal on a point of law by way of case stated[14]. Persons who would be parties to an appeal[15] to a valuation tribunal may agree in writing to refer the matter to arbitration[16]. Decisions of a valuation tribunal are also open, in principle, to challenge by way of judicial review[17] in circumstances which are not covered by the statutory appeals procedure[18]. The constitution and working of valuation tribunals in England and Wales are subject to review and consideration by the Administrative Justice and Tribunals Council[19].

1 As to valuation officers see para 6 ante.

2 As to local non-domestic rating lists see para 121 et seq post. As to central non-domestic rating lists see para 125 et seq post.

3 See the Local Government Finance Act 1988 s 41(1) (as amended) (local non-domestic rating lists) (cited in para 121 post), s 52(1) (central non-domestic rating lists) (cited in para 125 post).

4 As to the alteration of rating lists see para 128 et seq post.

5 See the Local Government Finance Act 1988 s 55(1) (as amended); the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659 (as amended); the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758 (as amended); and para 128 post.

6 The Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659 (as amended) and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005,

SI 2005/758 (as amended) govern the alteration of both local and central non-domestic rating lists: see paras 128, 140 post. As to the Secretary of State and the Welsh Ministers see para 3 ante.

7 As to the manner of making and serving proposals and the information to be included therein see para 130 post.

8 As to billing authorities see para 5 ante.

9 For the meaning of 'interested person' see para 130 note 1 post.

10 Alterations giving effect to completion notices are dated from the day in the notice. As to completion notices see paras 65–68 post.

11 As to the time from which alterations take effect see para 139 post.

12 As to valuation tribunals see para 147 et seq post.

13 As to appeals to the Lands Tribunal see para 165 et seq post. As to the Lands Tribunal generally see COMPULSORY ACQUISITION OF LAND vol 8(1) (2003 Reissue) para 202 et seq.

14 See paras 168–169 post.

15 For the meaning of 'appeal' for these purposes see para 151 note 1 post.

16 See para 164 post.

17 As to such challenges made by way of judicial review see para 163 post. As to the procedure for judicial review see ADMINISTRATIVE LAW vol 1(1) (2001 Reissue) paras 69 et seq, 159 et seq.

18 Ie where a tribunal acts without jurisdiction: see para 163 post.

19 See the Tribunals, Courts and Enforcement Act 2007 s 44, Sch 7; the Administrative Justice and Tribunals Council (Listed Tribunals) (Wales) Order 2007, SI 2007/2876, art 2, Schedule; and the Administrative Justice and Tribunals Council (Listed Tribunals) Order 2007, SI 2007/2951, art 2. As to the Administrative Justice and Tribunals Council see ADMINISTRATIVE LAW.

11. Calculating the chargeable amount. Subject to transitional provisions[1], exemptions[2] and reliefs[3], the chargeable amount for an occupied hereditament[4] for each day that it is both occupied and shown in a local non-domestic rating list[5] is calculated by multiplying the rateable value shown for the hereditament in the appropriate list by the multiplier and then dividing the product by the number of days in the financial year[6].

Unoccupied hereditaments in a local non-domestic rating list fall to be rated for each day in a financial year on which certain conditions are met[7]. Liability for unoccupied hereditaments is equal to the basic level of liability as for occupied hereditaments but with provision made for that liability to be reduced by order and for zero-rating to apply in specified cases[8]. There are specific provisions relating to when new buildings are deemed to be completed for these purposes[9].

Where part of a hereditament in a local non-domestic rating list is unoccupied but will remain so for a short time only, the billing authority[10] may require the valuation officer[11] to apportion the rateable value of the hereditament between the occupied and unoccupied parts of the hereditament[12].

The ratepayer becomes liable to the non-domestic rate in respect of any day of the chargeable financial year if his name is shown as a designated person in a central rating list[13]. The chargeable amount is calculated by multiplying the rateable value shown in the central list by the rating multiplier for the financial year, then dividing by the days occupied by the ratepayer in the financial year[14].

1 As to transitional provisions see para 83 et seq post.

2 As to exemptions see para 37 et seq post.

3 As to reliefs see para 70 et seq post.

4 For the meaning of 'hereditament' see para 33 et seq post. As to rateable occupation see para 12 et seq post.

5 As to local non-domestic rating lists see para 121 et seq post.

6 See the Local Government Finance Act 1988 ss 43–44 (as amended); and para 60 post.

7 See ibid s 45 (as amended); and paras 62–63 post.

8 See ibid ss 45–46 (as amended); and para 62 et seq post. Regulations may be made to prevent changes in the state of an unoccupied hereditament affecting liability: see s 66A (as added); and para 64 post.

9 See ibid s 46A(1) (as added), Sch 4A (as added and amended); and paras 65–68 post.

10 As to billing authorities see para 5 ante.

11 As to valuation officers see para 6 ante.

12 See the Local Government Finance Act 1988 s 44A (as added and amended); and para 61 post.
13 As to central non-domestic rating lists see para 125 et seq post.
14 See the Local Government Finance Act 1988 s 54; and para 69 post. The same formula applies whether the hereditament is occupied or not; cf hereditaments in local lists, to which differing formulae may be applied.

(3) RATEABLE OCCUPATION

(i) Introduction

12. Necessary ingredients of rateable occupation. Rateable occupation in relation to non-domestic property[1] is determined in accordance with rules explained and developed by extensive case law[2]. These rules, which applied under the General Rate Act 1967 (now repealed)[3], have been preserved under the Local Government Finance Act 1988, but any express statutory rules contained in the 1967 Act must be ignored[4].

The courts have accepted that there are four necessary ingredients in rateable occupation[5]:

(1) there must be actual occupation[6];
(2) the occupation must be exclusive for the particular purposes of the possessor[7];
(3) the possession must be of some value or benefit to the possessor[8]; and
(4) the possession must not be for too transient a period[9].

Provision is made for the rating of certain non-domestic unoccupied property[10].

1 As to rateable property generally see para 7 ante.
2 As to the continuing relevance of the old case law to the current statutory regime of rating see para 2 ante.
3 As to the historical development of the statutory regime of rating see para 2 ante.
4 See the Local Government Finance Act 1988 s 65(2); and para 13 post.
5 *John Laing & Son Ltd v Assessment Committee for Kingswood Assessment Area* [1949] 1 KB 344 at 350, [1949] 1 All ER 224 at 228, CA, per Tucker LJ, and at 357 and 232 per Jenkins J; *LCC v Wilkins (Valuation Officer)* [1957] AC 362, [1956] 3 All ER 38, HL; *Hall (Valuation Officer) v Darwen Corpn* (1957) 2 RRC 329 at 337, Lands Tribunal; *Holly Lodge Estate Committee v Hope (Valuation Officer)* (1958) 3 RRC 176 at 180, Lands Tribunal. See also *Re Briant Colour Printing Co Ltd (in liquidation)* [1977] 3 All ER 968, [1977] 1 WLR 942, CA (liquidator of a company was held not to be in rateable occupation of the company's premises as he had been totally excluded by the workers); *Walker (Valuation Officer) v Ideal Homes Central Ltd* [1995] RA 347, Lands Tribunal (show houses were held to be occupied as non-domestic rateable hereditaments).

For the leading discussions of rateable occupation see *R v St Pancras Assessment Committee* (1877) 2 QBD 581; *Liverpool Corpn v Chorley Union Assessment Committee and Withnell Overseers* [1913] AC 197, HL; *Mayor, Aldermen and Councillors of the City of Westminster v The Southern Rly Co* [1936] AC 511, sub nom *Westminster City Council v Southern Rly Co* [1936] 2 All ER 322, HL. As to rating of unoccupied hereditaments see paras 62–68, 78–79 post.
6 See note 5 supra; and as to actual occupation see para 14 et seq post.
7 See note 5 supra; and as to exclusive occupation see para 16 et seq post.
8 See note 5 supra; and as to beneficial occupation see para 21 et seq post.
9 See note 5 supra; and as to permanence of occupation see para 26 post.
10 See the Local Government Finance Act 1988 s 45 (as amended); and paras 62–63, 78–79 post.

13. Owners and occupiers. For the purposes of the non-domestic rating provisions[1], the 'owner' of a hereditament or land is the person entitled to possession of it[2]. Whether a hereditament or land is occupied, and who is the occupier, must be determined by reference to the rules which would have applied for the purposes of the General Rate Act 1967 (now repealed[3]) had the Local Government Finance Act 1988 not been passed, ignoring any express statutory rules contained in the General Rate Act 1967[4].

A hereditament which is not in use is to be treated as unoccupied if it would otherwise be treated as occupied by reason only of there being kept in or on the hereditament plant, machinery or equipment which was used in or on the hereditament when it was last in use[5], or which is intended for use in or on the hereditament[6]. A hereditament is to be treated as unoccupied if it would otherwise be treated as occupied by reason only of the use of it for the holding of public meetings in furtherance of a person's candidature at a parliamentary or local government election[7], or if it is a house, the use of a room in it by a returning officer[8] for the purpose of taking the poll in a parliamentary or local government election[9].

The Secretary of State (or the Welsh Ministers, as the case may be)[10] may make such regulations as he sees fit to deal with any case where (apart from the regulations) there would be more than one owner or occupier of a hereditament or part or of land at a particular time[11].

1 Ie for the purposes of the Local Government Finance Act 1988 Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 14 et seq post): see s 67(13).

2 Ibid s 65(1). For the meaning of 'hereditament' see para 33 et seq post. A person is the owner, or in occupation of all or part, of a hereditament on a particular day if (and only if) he is its owner or in such occupation (as the case may be) immediately before the day ends: see s 67(6). As to the meaning of 'person' see para 6 note 16 ante. The Local Government Finance Act 1988 s 65(1) and s 65(2) (see the text and notes 3–4 infra) has effect subject to s 65(4) (see para 33 post), s 65(5)–(7) (see the text and notes 5–9 infra), s 65(8)–(8A) (s 65(8A) as added) (see para 31 note 3 post): s 65(3). As to Crown property see para 38 post.

3 As to the historical development of the statutory regime of rating see para 2 ante.

4 Local Government Finance Act 1988 s 65(2). See note 2 supra.

5 Ibid s 65(5)(a).

6 Ibid s 65(5)(b).

7 Ibid s 65(6)(a).

8 For these purposes, 'returning officer' is to be construed in accordance with the Representation of the People Act 1983 s 24 (as amended) (returning officers for parliamentary elections) (see ELECTIONS AND REFERENDUMS vol 15(4) (2007 Reissue) para 355) or s 35 (as amended) (returning officers for local government elections) (see ELECTIONS AND REFERENDUMS vol 15(4) (2007 Reissue) para 359) as the case may be: see the Local Government Finance Act 1988 s 65(7).

9 Ibid s 65(6)(b).

10 As to the Secretary of State and the Welsh Ministers see para 3 ante.

11 Local Government Finance Act 1988 s 50(1). The regulations may provide for the owner or occupier at the time concerned to be taken to be such one of the owners or occupiers as is identified in accordance with prescribed rules: s 50(3). 'Prescribed' in the context of regulations, means prescribed by the regulations: s 146(6). The regulations may provide that: (1) as regards any time when there is only one owner or occupier, s 43 (as amended) (occupied hereditaments) (see paras 60, 70 et seq post) or s 45 (as amended) (unoccupied hereditaments) (see paras 62–63, 78–79 post), as the case may be, is to apply (s 50(4)(a)); (2) as regards any time when there is more than one owner or occupier, the owners or occupiers are to be jointly and severally liable to pay a prescribed amount by way of non-domestic rate (s 50(4)(b)). The regulations may include that prescribed provisions are to apply instead of prescribed provisions of Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 14 et seq post), or that prescribed provisions of Pt III (as amended) are not to apply or are to apply subject to prescribed amendments or adaptations: s 50(5). Regulations made under this power include the Non-Domestic Rating (Collection and Enforcement) (Miscellaneous Provisions) Regulations 1990, SI 1990/145 (as amended) (see para 170 et seq post). Nothing in the Local Government Finance Act 1988 s 50(3)–(5) prejudices the generality of s 50(1): s 50(2).

(ii) Actual Occupation

14. Meaning of 'actual occupation'. Actual occupation involves physical possession of the hereditament in the sense that some degree of use of it is made, however slight[1]. Legal possession is not synonymous with actual occupation[2].

In certain circumstances, unoccupied property is rateable and so the concept of occupation does not apply[3].

1 See eg *Vtesse Networks Ltd v Bradford* [2006] EWCA Civ 1339, [2006] RA 427, [2006] All ER (D) 242 (Oct) (a network provider was in actual occupation of the whole of a fibre optic telecommunications network, which was a unit of property so as to form a hereditament, despite its being contained in cables partly owned by the network provider and partly owned by third parties). See also *Clydesdale Bank plc v Lanarkshire Valuation Joint Board Assessor* [2005] RA 1 (where ATMs owned by banks were placed in shops, the areas of floor space on which the machines were placed could not be entered in the roll as separate rateable occupation by the banks because the agreements to supply, use and control the ATMs did not confer a right of occupation of the floor space upon the banks).

2 *R v St Pancras Assessment Committee* (1877) 2 QBD 581. A trespasser may be rateable: see para 15 post.

3 As to the rating of unoccupied property see para 62 et seq post.

15. Title not always material. Occupation does not depend on title[1], although evidence of title may be material, for instance where it is doubtful which of two persons is the rateable occupier[2], or whether there is any person who can be so described[3].

A mere trespasser may be rateable[4], as may licensees or tenants at will[5] or companies allowed certain use of land for commercial purposes[6].

1 *Lord Bute v Grindall* (1786) 1 Term Rep 338; *R v Leith* (1852) 1 E & B 121 at 131; *Mersey Docks and Harbour Board Trustees v Cameron, Jones v Mersey Docks and Harbour Board Trustees* (1865) 11 HL Cas 443; *Kittow v Liskeard Union* (1874) LR 10 QB 7; *Cory v Bristow* (1877) 2 App Cas 262 at 273, HL, per Lord Cairns LC; *Holywell Union and Halkyn Parish v Halkyn District Mines Drainage Co* [1895] AC 117 at 121, HL, per Lord Herschell LC, and at 127 per Lord Macnaghten.

2 See eg *Holywell Union and Halkyn Parish v Halkyn District Mines Drainage Co* [1895] AC 117 at 134, HL, per Lord Davey; *Hall (Valuation Officer) v Darwen Corpn* (1957) 2 RRC 329, Lands Tribunal. See also the cases cited in para 17 post.

3 See eg *New Shoreham Harbour Comrs v Lancing* (1870) LR 5 QB 489; *Swansea Union Assessment Committee v Swansea Harbour Trustees* (1907) 71 JP 497, sub nom *Swansea Harbour Trustees v Swansea Union Assessment Committee* (1907) 1 Konst Rat App 250, HL; *Doncaster Union Assessment Committee v Manchester Sheffield and Lincolnshire Rly Co* (1894) 71 LT 585, HL; *Margate Corpn v Pettman* (1912) 106 LT 104, DC. As to the liability of a trustee as a rateable occupier see *R v Brighton Justices, ex p Howard* [1980] RA 222, DC; *Marshall v Camden London Borough Council* [1981] RVR 94, DC; *Verrall v Hackney London Borough Council* [1983] QB 445, [1983] 1 All ER 277, CA (person who authorised or ratified occupation on behalf of an unincorporated body was held not liable for the rates as occupation by such a body is impossible in law).

4 *Forrest v Greenwich Overseers* (1858) 8 E & B 890 at 897 per Lord Campbell CJ; *Bruce v Willis* (1840) 11 Ad & El 463 at 479; *R v Bell* (1798) 7 Term Rep 598 at 601. Cf *Kittow v Liskeard Union* (1874) LR 10 QB 7 at 15 per Lush J; *Coomber v Berkshire Justices* (1882) 10 QBD 267 at 282, CA, per Brett LJ. In Scotland, squatters were held to have been correctly included in the valuation list in *Langlands v Midlothian Assessor* [1963] 3 RVR 443. See also *Westminster City Council v Tomlin* [1990] 1 All ER 920, [1989] 1 WLR 1287, CA.

5 *R v Munday* (1801) 1 East 584; *R v Green* (1829) 9 B & C 203 (occupants of almshouses); *R v Lady Ponsonby* (1842) 3 QB 14 (occupant of rooms in palace). An inmate of a lunatic asylum was not a rateable occupant: *R v St Luke's Hospital* (1760) 2 Burr 1053 at 1065.

6 Eg a company which provides bookstalls on a railway station (*Mayor, Aldermen and Councillors of the City of Westminster v The Southern Rly Co* [1936] AC 511, sub nom *Westminster City Council v Southern Rly Co* [1936] 2 All ER 322, HL); a water company (*R v Chelsea Water Works Co* (1833) 5 B & Ad 156; *R v East London Waterworks Co* (1852) 18 QB 705); or, prior to the nationalisation of the gas undertaking, a gas company (*R v Stevens and Anderson* (1865) 12 LT 491); or a telegraph company (*Electric Telegraph Co v Salford Overseers* (1855) 11 Exch 181). Cf *Clydesdale Bank plc v Lanarkshire Valuation Joint Board Assessor* [2005] RA 1 (ATMs owned by banks were placed in shops to attract retail custom and the agreements to supply, use and control the ATMs did not confer a right of occupation of the floor space upon the banks).

(iii) Exclusive Occupation

16. Occupation must be exclusive. In order to be rateable, occupation must be exclusive[1]. Exclusive occupation means that the person using the land may prevent any other person from using it in the same way[2]. Occupation therefore does not cease to be exclusive because other persons have simultaneous, although different, rights of user over the same land, for all may be rateable in respect of their different occupations[3]. A person is not divested of occupation because he lets the land or parts of it to transient

users[4]. Several persons, as in the case of partners, may be in joint occupation of a single hereditament, in which case each is liable for the rates on the whole[5].

1 *Cory v Bristow* (1877) 2 App Cas 262, HL; *Holywell Union and Halkyn Parish v Halkyn District Mines Drainage Co* [1895] AC 117, HL; *Peak (Valuation Officer) v Burley Golf Club* [1960] 2 All ER 199, [1960] 1 WLR 568, CA; *John Laing & Son Ltd v Assessment Committee for Kingswood Assessment Area* [1949] 1 KB 344, [1949] 1 All ER 224, CA. See also *R v The Co of Proprietors of the Trent and Mersey Navigation* (1825) 4 B & C 57; *Kittow v Liskeard Union* (1874) LR 10 QB 7; *R v Jolliffe* (1787) 2 Term Rep 90; *Greenall (Valuation Officer) v Castleford Brick Co Ltd* (1959) 5 RRC 253, Lands Tribunal; *Mildmay v The Churchwardens and Overseers of Wimbledon* (1872) 41 LJMC 133; *Renore Ltd v Hounslow London Borough Council* (1970) 15 RRC 378, DC, where exclusive occupation of car parking spaces rendered the occupiers liable to rates. See also *Vtesse Networks Ltd v Bradford* [2006] EWCA Civ 1339, [2006] RA 427, [2006] All ER (D) 242 (Oct) (where a fibre optic telecommunications network was contained in cables partly owned by the network provider and partly owned by third parties, the occupation of the network by the network provider was exclusive, not being shared with and therefore not subordinate to that of the third party).

2 *Cory v Bristow* (1877) 2 App Cas 262 at 276, HL, per Lord Hatherley. Exclusive right to remove all but certain materials from a colliery tip amounts to rateable occupation: *Ryan Industrial Fuels Ltd v Morgan (Valuation Officer)* [1965] 3 All ER 465, [1965] 1 WLR 1347, CA. The inability of a golf club to exclude the public and commoners from the course meant that the club's occupation was not exclusive and therefore not rateable: *Peak (Valuation Officer) v Burley Golf Club* [1960] 2 All ER 199, [1960] 1 WLR 568, CA; distinguished in *Pennard Golf Club v Richards (Valuation Officer)* (1976) 20 RRC 225, Lands Tribunal, where the occupation of land by a golf club was held to be exclusive despite the rights of commoners and rights of way; and in *Greater Manchester Passenger Transport Executive v Carter (Valuation Officer)* [1981] RA 271, Lands Tribunal, where the owner in possession of bus turning circles was held rateable despite trespass by the public and unauthorised use by another bus operator. See also *Eden (Valuation Officer) v Grass Ski Promotions Ltd* [1981] RA 7, Lands Tribunal (where occupation of a grass ski course was held to be not exclusive and not rateable); and *Pratt (Valuation Officer) v United Automobile Services Ltd* [1987] RA 257, Lands Tribunal (a bus company was not in rateable occupation of parts of a bus station shared with public and other bus companies).

3 Eg *Young & Co v Liverpool Assessment Committee* [1911] 2 KB 195, DC (warehouse and hydraulic mains in separate occupation); *Lancashire Telephone Co v Manchester Overseers* (1884) 14 QBD 267, CA (telephone wires attached to roof). As to instances where there may be a rival occupancy in some person who, to some extent, may have occupancy rights over the premises in question see para 17 post.

4 *Roberts v Aylesbury Overseers* (1853) 1 E & B 423 (lettings to stall-holders in a market); cf *Williams v Wednesbury and West Bromwich Churchwardens and Overseers Union Assessment Committee* (1890) Ryde Rat App (1886–90) 327, DC. See also *Magon v Barking and Dagenham London Borough Council* [2000] RA 459 (premises used as a business for the purpose of allowing third parties to store their goods, subject to very limited rights, did not divest the owner of the premises of actual occupation).

5 *Griffiths v Gower RDC* (1972) 17 RRC 69 (holiday flat jointly owned); *Pamplin v Preston Borough Council* [1980] RA 246; *R v Paynter* (1845) 7 QB 255 (affd sub nom *Paynter v R* (1847) 10 QB 908, Ex Ch). Where, however, premises are incorrectly rated as a single hereditament, the occupier of a part only cannot be compelled to pay the rates on the whole: *R v London Justices* [1899] 1 QB 532 at 539, DC. A person in occupation of part of a hereditament for only part of the year is liable to pay only a proportion of the rates: see *Croydon London Borough Council v Maxon Systems Inc (London) Ltd* [1999] RA 286, [1999] EGCS 68; and para 60 post.

17. Paramount occupier is rateable. In certain cases, there may be a rival occupancy in some person who, to some extent, may have occupancy rights over the premises. The question in every such case must be one of fact, namely whose position in relation to occupation is paramount, and whose position in relation to occupation is subordinate, but that question must be considered and answered in regard to the position and rights of the parties in respect of the premises in question, and in regard to the purpose of the occupation of those premises[1]. Neither the control of access to, nor the existence of restrictive covenants on, the user of the portion is decisive[2]. A person allowed the use of offices[3] is not, if he is subject to the landlord's control, the rateable occupier of the offices[4]. Similar considerations apply to parts of commercial or industrial undertakings appropriated to the use of persons conducting subsidiary enterprises[5]. The agreement which allows the separate user may contain words of demise, but it does not

necessarily follow that the grantor has transferred to the grantee the rateable occupation[6]; and the grantee may be the rateable occupier even though no words of demise appear in the agreement[7].

1 *Mayor, Aldermen and Councillors of the City of Westminster v The Southern Rly Co* [1936] AC 511, sub nom *Westminster City Council v Southern Rly Co* [1936] 2 All ER 322, HL; and see *Holywell Union and Halkyn Parish v Halkyn District Mines Drainage Co* [1895] AC 117, HL (occupation is not exclusive where it is subject to control and regulation by others).

Control over the occupation of the land is to be distinguished from control over the occupier such as the control which a building owner has over the performance of a building contract: see *John Laing & Son Ltd v Assessment Committee for Kingswood Assessment Area* [1949] 1 KB 344, [1949] 1 All ER 224, CA; followed in *Wimborne District Council v Brayne Construction Co Ltd* [1985] RA 234, CA. See also *Andrews v Hereford RDC* [1963] RA 75, DC (where the owner of a gravel pit permitted a company to extract gravel under licence, but also permitted others to take gravel, and the owner was held rateable); *Ryan Industrial Fuels Ltd v Morgan (Valuation Officer)* [1965] 3 All ER 465, [1965] 1 WLR 1347, CA (where a company had exclusive right to extract all materials in a colliery tip, other than red ash, for a period of 15 years, and was held to be in rateable occupation of the tip); *Bartlett (Valuation Officer) v Reservoir Aggregates Ltd* [1985] RA 191, [1985] 2 EGLR 171, CA (a company deepening a reservoir and extracting minerals was held to be in rateable occupation of the gravel stratum); *Croydon London Borough Council v Maxon Systems Inc (London) Ltd* [1999] RA 286, [1999] EGCS 68 (a person was permitted to occupy the second floor and part of the third floor of a building on payment of a licence fee which included an apportionment in respect of non-domestic rates, but the owner of the building retained general control of all parts of the building and was held to be in paramount occupation).

2 *Mayor, Aldermen and Councillors of the City of Westminster v The Southern Rly Co* [1936] AC 511, sub nom *Westminster City Council v Southern Rly Co* [1936] 2 All ER 322, HL (shops on railway station and builders' depots in goods yard). The purpose of the occupation must also be considered: *Mayor, Aldermen and Councillors of the City of Westminster v The Southern Rly Co* supra at 529–530 and at 326–327 per Lord Russell of Killowen; and see *Field Place Caravan Park Ltd v Harding* [1966] 2 QB 484, [1966] 3 All ER 247, CA, where the occupier of a caravan was rateable despite a certain amount of control by the site owner. As to the discretionary treatment for caravan pitches provided under certain legislation that has been overtaken to all practical effect but which has not yet been repealed see para 36 post. See also *Hampton Wick v Hatchetts' White Horse Cellars Ltd* (1931) 14 R & IT 8, DC (occupation of tea gardens by refreshment caterers subordinate to owner's occupation and so not rateable); *Dover Harbour Board v Dover Borough Rating Authority* (1931) 13 R & IT 199 (occupation of a landing place by the board subordinate to that of the owners who had certain rights of access); *Orkney Assessor v Highland Airways Ltd* (1935) 23 R & IT 100 (occupation as a landing place for aeroplanes paramount to that of the farmer); *Greenwoods Building Industries Ltd v Sainsbury (Valuation Officer)* (1955) 48 R & IT 155, Lands Tribunal (occupation of a site by subcontractors); *Hall (Valuation Officer) v Darwen Corpn* (1957) 2 RRC 329, Lands Tribunal (occupation of vacant land for holding fairs periodically).

3 *R v Smith* (1860) 30 LJMC 74.

4 See *Mayor, Aldermen and Councillors of the City of Westminster v The Southern Rly Co* [1936] AC 511 at 530, sub nom *Westminster City Council v Southern Rly Co* [1936] 2 All ER 322 at 327, HL, per Lord Russell of Killowen, and at 556 and 345 per Lord Wright.

5 Eg banks, shops and bookstalls on a railway station and builders' depots in a goods yard (*Mayor, Aldermen and Councillors of the City of Westminster v The Southern Rly Co* [1936] AC 511, sub nom *Westminster City Council v Southern Rly Co* [1936] 2 All ER 322, HL); building contractors' offices, canteens and other structures on a building site (*John Laing & Son Ltd v Assessment Committee for Kingswood Assessment Area* [1949] 1 KB 344, [1949] 1 All ER 224, CA); three properties within the curtilage of a single factory but separately occupied by three companies, one being the parent company and the other two being separate subsidiary companies, and each company being a separate legal entity carrying on separate businesses (*Barr (Valuation Officer) v Manley and Regulus Ltd* (1960) 53 R & IT 213, Lands Tribunal); portions of dock undertakings appropriated to shippers (*Allan v The Overseers of Liverpool* (1874) LR 9 QB 180, DC), or to a canal company (*Rochdale Canal Co v Brewster* [1894] 2 QB 852, CA). In the last two cases the dock board retained the control, and the persons using were held not rateable; but where the board appropriated a portion to a firm of wine merchants, for use as bonded stores, the firm was held to have such control as to be rateable: *Young & Co v Liverpool Assessment Committee* [1911] 2 KB 195, DC. See also *Watson (Valuation Officer) v Thornbury RDC and Miller* (1959) 53 R & IT 107, Lands Tribunal (chalets on camping site in separate occupation). In cases concerning the following properties the persons allowing the use retained control of the whole and were the rateable occupiers: a portion of an exhibition appropriated to a caterer (*R v Morrish* (1863) 32 LJMC 245); part of a set of telegraph wires appropriated by the Postmaster General to the use of a private company (*Paris and New York Telegraph Co v Penzance Union* (1884) 12 QBD 552, DC); portions of electric cables and equipment appropriated to the use of a

tramways company (*New St Helens and District Tramways Co Ltd v Prescot Union* (1904) 1 Konst Rat App 150, DC); portions of a cemetery in which the cemetery company had sold exclusive rights of burial (*R v St Mary Abbot's, Kensington* (1840) 12 Ad & El 824), or which it had sold for graves (*R v Abney Park Cemetery Co* (1873) LR 8 QB 515). See also *Porter (Valuation Officer) v Gray, Son and Cook and Cambridge Corpn* (1952) 46 R & IT 28, Lands Tribunal, where a municipal car park was held to be in the occupation of the corporation notwithstanding the letting out of parking spaces. Cf *Renfrewshire Assessor v Old Consort Car Co Ltd* 1960 SC 226, where bars and shops at an airport were run by contractors, and the contractors, not the airport authority, were held to be in rateable occupation; and see *Clydesdale Bank plc v Lanarkshire Valuation Joint Board Assessor* [2005] RA 1, where a right of occupation was not conferred on banks whose ATMs were placed in shops as the agreements controlling their supply did not give the banks a right to occupy floor space.

6 *Allan v The Overseers of Liverpool* (1874) LR 9 QB 180, DC; *Rochdale Canal Co v Brewster* [1894] 2 QB 852, CA. See the comments on these cases in *Mayor, Aldermen and Councillors of the City of Westminster v The Southern Rly Co* [1936] AC 511 at 557–559, sub nom *Westminster City Council v Southern Rly Co* [1936] 2 All ER 322 at 346–347, HL, per Lord Wright; and see also *Dunham Bridge Co v Retford Assessment Committee* [1949] WN 419, CA (owner in occupation where purported lease of toll bridge ultra vires).

7 *R v Stevens and Anderson* (1865) 12 LT 491; *Mayor, Aldermen and Councillors of the City of Westminster v The Southern Rly Co* [1936] AC 511, sub nom *Westminster City Council v Southern Rly Co* [1936] 2 All ER 322, HL.

18. Occupation by employee or agent. An employee or agent occupying a separately rateable hereditament, even if he does so by virtue of his employment, may be the rateable occupier if the occupation is for his own purposes rather than those of his employer or principal[1]. Where an employee or agent[2] is required to occupy a hereditament in order to carry out the purposes of his employer's business, or to secure the better performance of his duties, the occupation for rating purposes is that of the employer[3]. A member of an unincorporated association cannot be in occupation since occupation by such an organisation is impossible in law[4].

1 *R v Catt* (1795) 6 Term Rep 332; *R v Lynn* (1838) 8 Ad & El 379; *Smith v Seghill Overseers* (1875) LR 10 QB 422, DC; and see *Morrell (Valuation Officer) v Glamorgan County Council* (1958) 4 RRC 20 at 23, Lands Tribunal. If a factory is taken over by the owner's former employees, and they have exclusive occupation, the owner will not be in rateable occupation: *Re Briant Colour Printing Co Ltd (in liquidation)* [1977] 3 All ER 968, [1977] 1 WLR 942, CA. As to the distinction between occupancy and a tenancy see LANDLORD AND TENANT vol 27(1) (2006 Reissue) para 15.

2 *Solihull Corpn v Gas Council* [1961] 1 All ER 542, [1961] WLR 619, CA (affd [1962] 1 All ER 898n, [1962] 1 WLR 583, HL) (gas board not occupying research station as agents of Gas Council); *Greenwoods Building Industries Ltd v Sainsbury (Valuation Officer)* (1955) 48 R & IT 155, Lands Tribunal (one company not the employee or agent of another).

3 *Glasgow Corpn v Johnstone* [1965] AC 609, [1965] 1 All ER 730, HL (church house occupied by church officer in order to perform duties); *Northern Ireland Comr of Valuation v Fermanagh Protestant Board of Education* [1969] 3 All ER 352, [1969] 1 WLR 1708, HL (house owned by school and used as schoolmasters' residences); *Hirst v Sargent* [1966] RA 605, DC (house owned by school and occupied by school groundsman who was able to prevent trespass and damage to playing fields from the hereditament). See also *Yates v Chorlton-upon-Medlock Union* (1883) 47 JP 630, DC (dwelling house occupied by means of a caretaker); *R v Field* (1794) 5 Term Rep 587 (school occupied by means of a matron); *R v Tynemouth Inhabitants* (1810) 12 East 46 (lighthouse occupied by means of a lightkeeper); *LCC v Hackney Borough Council* [1928] 2 KB 588 (caretaker on premises); *Reed v Cattermole* [1937] 1 KB 613, [1937] 1 All ER 541, CA (manse occupied by means of minister, who was required by the church to reside there for the more effectual performance of his duty).

4 *Verrall v Hackney London Borough Council* [1983] QB 445, [1983] 1 All ER 277, CA.

19. Occupation by a caretaker or guest. A mere caretaker cannot himself be a rateable occupier[1]. Whether the caretaker's employer is rateable depends upon whether the occupation is beneficial[2]. Where the hereditament consists of parts capable of separate rateable occupation, the fact that a caretaker is residing in one such part does not make his employer the rateable occupier of the whole[3]. The current law makes provision for rating partly occupied hereditaments[4].

1 *Yates v Chorlton-upon-Medlock Union* (1883) 47 JP 630, DC; *R v Simmonds* (1893) Ryde Rat App 316; and see para 18 ante.
2 See *Bertie v Walthamstow Overseers* (1904) 68 JP 545, DC, where a caretaker was looking after other property belonging to the same owner and supervising workmen, and the owner was held to be the rateable occupier of the caretaker's house because the occupation was beneficial to him.
3 *Langford v Cole* (1910) 74 JP 229, DC.
4 See the Local Government Finance Act 1988 s 44A (as added and amended); and para 61 post.

20. Occupation by bankrupt, liquidators or receiver. A bankrupt may be in rateable occupation even though he holds indirectly through the trustee in bankruptcy[1]. In winding up, liquidators who carry on the company's business continue the rateable occupation of its premises[2]; and they are in rateable occupation even if they occupy merely for the purpose of fulfilling outstanding contracts[3], or of preventing damage to the company's property[4].

Where a receiver and manager of a company's business is appointed by order of the court, by which the company is not directed to deliver up possession of land to him, he has no rateable occupation of the company's land[5]; but a receiver appointed out of court under the terms of a deed by which the company is to give up possession at a certain date is in rateable occupation as from the date when possession is given up[6].

Specific exemptions to the unoccupied rate now exist in relation to the above categories[7].

1 Cf *Re Thomas, ex p Ystradyfodwg Local Board* (1887) 57 LJQB 39.
2 *Re Wearmouth Crown Glass Co* (1882) 19 ChD 640; *Taggs Island Casino Hotel Ltd v Richmond-upon-Thames London Borough Council* (1968) 14 RRC 119; *Banister v Islington London Borough Council* (1972) 17 RRC 191, DC, where the receiver was also liable for unoccupied rate after vacating the premises. See COMPANY AND PARTNERSHIP INSOLVENCY vol 7(4) (2004 Reissue) para 892.
3 *Re National Arms and Ammunition Co* (1885) 28 ChD 474, CA. Cf *Re International Marine Hydropathic Co* (1884) 28 ChD 470, CA.
4 *Re Blazer Fire Lighter Ltd* [1895] 1 Ch 402.
5 The occupation remains in the company (*Re Marriage, Neave & Co, North of England Trustee, Debenture and Assets Corpn v Marriage, Neave & Co* [1896] 2 Ch 663, CA; followed in *National Provincial Bank of England Ltd v United Electric Theatres Ltd* [1916] 1 Ch 132 at 135; and *Gyton v Palmour* [1945] KB 426, [1944] 2 All ER 540, DC), but rates due by the company must be paid by the receiver, in priority to the claim of a debenture holder, out of assets coming into the receiver's hands (*Westminster City Council v Treby* [1936] 2 All ER 21; *Westminster Corpn v Haste* [1950] Ch 442, [1950] 2 All ER 65). See COMPANIES vol 7(2) (2004 Reissue) para 1641. The company will not be in occupation when it and the liquidator are totally excluded from its premises by ex-employees: *Re Briant Colour Printing Co Ltd (in liquidation)* [1977] 3 All ER 968, [1977] 1 WLR 942, CA.
6 *Richards v Kidderminster Overseers* [1896] 2 Ch 212. See also *Re Marriage, Neave & Co, North of England Trustee, Debenture and Assets Corpn v Marriage, Neave & Co* [1896] 2 Ch 663 at 678, CA, per Rigby LJ. As to a receiver's duty to pay rates see RECEIVERS vol 39(2) (Reissue) para 406.
7 As to exemptions generally see para 37 et seq post.

(iv) Beneficial Occupation

21. Occupation for the use of the public. The public cannot be a rateable occupier, and land occupied by a body as custodians or guardians for the public is exempt from rates[1]. The exemption arises where land is held under an irrevocable obligation to keep it for the use of the public[2] pursuant to statute. An obligation created by non-statutory means, such as a voluntary trust, may be sufficient[3], but the trust must confer such rights upon the public as to exhaust the possibility of the hereditament being of value to a local authority[4]. The public must in fact have free and unrestricted use of the land[5]. Thus highways[6], bridges[7] and public parks[8] may be occupied by the public and exempt from rates. In relation to public places such as parks, the local authority is the occupier but its occupation is not beneficial as the unrestricted use by the public exhausts all possible value of the hereditament to the local authority[9]. Certain

parks which for the time being are available for free and unrestricted use by members of the public are exempt from rates[10]. Cases decided under previous legislation held that the exemption extended to uses ancillary to the main public user[11] even if the ancillary part is let out at a rent[12].

1 *Lambeth Overseers v LCC* [1897] AC 625, HL (the 'Brockwell Park' case); *Manchester Corpn v Chorlton Union Assessment Committee* (1899) 15 TLR 327, DC; *Liverpool Corpn v West Derby Assessment Committee* [1908] 2 KB 647, CA; *Burnell (Valuation Officer) v Downham Market UDC* [1952] 2 QB 55, [1952] 1 All ER 601, CA; *Blake (Valuation Officer) v Hendon Corpn* [1962] 1 QB 283, [1961] 3 All ER 601, CA. The claim for exemption failed in *Liverpool Corpn v West Derby Union* (1905) 69 JP 277, DC; *London Playing Fields Society v South West Essex Assessment Committee* (1930) 144 LT 233, DC; *Sir John Soane's Museum Trustees v St Giles-in-the-Fields and St George's, Bloomsbury, Joint Vestry* (1900) 83 LT 248, DC; *North Riding of Yorkshire County Valuation Committee v Redcar Corpn* [1943] KB 114, [1942] 2 All ER 589, DC; *Kingston-upon-Hull Corpn v Clayton (Valuation Officer)* [1963] AC 28, [1961] 3 All ER 118, HL. Public parks are now exempt by statute: see the text and notes 8–12 infra.

2 The dedication must be to the public; dedication to a more limited class is not enough: *Holly Lodge Estate Committee v Hope (Valuation Officer)* (1958) 3 RRC 176, Lands Tribunal; *Hyde Borough Council v Wilkes (Valuation Officer) and Ashton Trustees* (1958) 4 RRC 151, Lands Tribunal.

3 *Burnell (Valuation Officer) v Downham Market UDC* [1952] 2 QB 55, [1952] 1 All ER 601, CA; *Burnell (Valuation Officer) v Terrington St Clement Parish Council* (1954) 47 R & IT 172, Lands Tribunal. Cf *Hyde Borough Council v Wilkes (Valuation Officer) and Ashton Trustees* (1958) 4 RRC 151, Lands Tribunal; *New Windsor Borough Council v Cleaver (Valuation Officer)* (1959) 53 R & IT 123, Lands Tribunal.

4 *Kingston-upon-Hull Corpn v Clayton (Valuation Officer)* [1963] AC 28, [1961] 3 All ER 118, HL, where premises were left in trust for the public as an art gallery but the public was excluded from certain parts and did not have free and unrestricted access, and as therefore its value to the corporation was not exhausted the gallery was rateable.

5 *Lambeth Overseers v LCC* [1897] AC 625, HL (the 'Brockwell Park' case). Reasonable restrictions on user may not be inconsistent with the public's free and unrestricted use of the land: *Liverpool Corpn v West Derby Assessment Committee* [1908] 2 KB 647, CA; *Burnell (Valuation Officer) v Downham Market UDC* [1952] 2 QB 55, [1952] 1 All ER 601, CA; cf *Kingston-upon-Hull Corpn v Clayton (Valuation Officer)* [1963] AC 28, [1961] 3 All ER 118, HL; *South Yorkshire County Council v Jones (Valuation Officer)* [1984] RA 204, [1985] JPL 124, Lands Tribunal; *Max Pullan Management Committee v Simpson (Valuation Officer)* [1989] RVR 128, Lands Tribunal.

6 *Lambeth Overseers v LCC* [1897] AC 625 at 630, HL. See also *Wheeler v Metropolitan Board of Works* (1869) LR 4 Exch 303 at 307; *Stratton v Metropolitan Board of Works* (1874) LR 10 CP 76 at 85; *Bristol Guardians v Bristol Corpn* (1887) 18 QBD 549, CA.

7 *Hare v Putney Overseers* (1881) 7 QBD 223, CA.

8 See the cases cited in note 1 supra; and the text and notes 9–12 infra.

9 See *Kingston-upon-Hull Corpn v Clayton (Valuation Officer)* [1963] AC 28, [1961] 3 All ER 118, HL, in which the House of Lords took the view that the exemption of public parks from rating depended upon the absence of beneficial occupation.

10 See para 53 post.

11 See eg *Liverpool Corpn v West Derby Assessment Committee* [1908] 2 KB 647, CA (bandstand, bowling green, park keepers' houses, refreshment kiosk); *Bexley Borough Council v Draper (Valuation Officer)* (1954) 47 R & IT 431, Lands Tribunal (changing rooms, staff mess-room, nursery garden, stables and garage, groundsman's house); *Redbridge London Borough Council v Wand (Valuation Officer)* (1970) 16 RRC 280 (swimming pool in local authority park). Cf *LCC v Fulham Metropolitan Borough Council* (1951) 44 R & IT 327, Lands Tribunal (civic restaurant in park rateable); *Denman (Valuation Officer) v Brandon Town Bowling Club* (1950) 44 R & IT 54, Lands Tribunal (bowling green rateable); *LCC v Robinson (Valuation Officer) and Lambeth Metropolitan Borough Council* (1955) 48 R & IT 455, Lands Tribunal (restaurant in park rateable); *Crosby Borough Council v Lyster (Valuation Officer)* (1955) 49 R & IT 23, Lands Tribunal (park officials' houses rateable); *Weston-super-Mare Borough Council v Escott (Valuation Officer)* (1953) 47 R & IT 23, Lands Tribunal (putting green and kiosk rateable); *New Windsor Borough Council v Cleaver (Valuation Officer)* (1959) 53 R & IT 123, Lands Tribunal (tea gardens rateable); *Smith (Valuation Officer) v St Albans City and District Council* [1978] RA 147, Lands Tribunal (swimming baths not part of a park nor ancillary to it; rateable); *Cumbria County Council v Sture (Valuation Officer)* [1975] JPL 226, Lands Tribunal (nature reserve rateable); *Hampshire County Council v Broadway (Valuation Officer)* [1982] RA 309 (charges made for car parking and other services did not render a country park provided by the county council liable to rates).

12 *Sheffield Corpn v Tranter (Valuation Officer)* [1957] 2 All ER 583, [1957] 1 WLR 843, CA (refreshment pavilion in park let to a caterer not rateable); *Southern Miniature Railways Ltd v Hake (Valuation Officer)* (1959) 5 RRC 179, Lands Tribunal (privately owned miniature railway in public park not rateable).

22. Occupation must be of value or benefit. To be rateable, occupation must be of value or benefit[1]. The value or benefit need not take the form of pecuniary profit[2], and a hereditament may be rateable even though the occupation of it involves a pecuniary loss[3]. Beneficial occupation can arise if the occupation of the hereditament affords to the occupier the facility for the exercise of a statutory duty[4] or a statutory power[5], or for discharging the duties of a trust[6].

1 Potential beneficial occupation may be enough: *Hare v Putney Overseers* (1881) 7 QBD 223 at 233–234, CA, per Lord Esher; *Winstanley v North Manchester Overseers* [1910] AC 7 at 15, HL, per Lord Atkinson; *R v Heaton* (1856) 20 JP Jo 37; *City of London Real Property Co Ltd v Stewart (Valuation Officer)* [1962] RVR 246, Lands Tribunal. However, there must be actual occupation (i e acts of user) first: *R v Fayle* (1856) 4 WR 460; *Liverpool Corpn v Chorley Union Assessment Committee and Withnell Overseers* [1913] AC 197 at 207–209, HL, per Lord Atkinson; *Re London and North Eastern Rly Co's Appeal* [1946] KB 27 at 34–36 per Wrottesley J. See also *Tyne Coal Co v Wallsend Parish Overseers* (1877) 46 LJMC 185 (drowned-out mine not rateable); *Consett Iron Co Ltd v Assessment Committee for No 5 or North-Western Area of County of Durham* [1931] AC 396, HL (mine running at a loss rateable); *Cumbria County Council v Sture (Valuation Officer)* [1975] JPL 226 (occupation of nature reserve beneficial); *Appleton v Westminster Corpn* [1963] RVR 374, DC (whether or not premises are beneficially occupied is a matter of fact and degree); *British Coal Corpn v Aspinall (Valuation Officer)* [1988] RA 78, Lands Tribunal (surface structures used during the construction of a coal mine were not rateable until the mine was operational).

2 *Mersey Docks and Harbour Board Trustees v Cameron, Jones v Mersey Docks and Harbour Board Trustees* (1865) 11 HL Cas 443; *R v London School Board* (1886) 17 QBD 738, CA; *Burton-upon-Trent Corpn v Burton-upon-Trent Union Assessment Committee and Stretton Overseers* (1889) 24 QBD 197, CA; *LCC v Churchwardens etc of Erith Parish and Dartford Union Assessment Committee* [1893] AC 562, HL; *West Kent Main Sewerage Board v Dartford Union Assessment Committee etc* [1911] AC 171, HL; *Greig v Edinburgh University* (1868) LR 1 Sc & Div 348, HL; *Clyde Navigation Trustees v Adamson* (1865) 4 Macq 931, HL.

3 Eg *R v Parrot* (1794) 5 Term Rep 593; *Consett Iron Co Ltd v Assessment Committee for No 5 or North-Western Area of County of Durham* [1931] AC 396, HL; *O'Malley v Congested Districts Board* [1919] 2 IR 28.

4 *R v London School Board* (1886) 17 QBD 738, CA; *Robinson Bros (Brewers) Ltd v Houghton and Chester-le-Street Assessment Committee* [1937] 2 KB 445 at 480, 487, [1937] 2 All ER 298 at 314–315, 319, CA, per Scott LJ.

5 See eg *Swindon Borough Council v Tavener (Valuation Officer)* (1952) 45 R & IT 410, Lands Tribunal; *Erith Borough Council v Draper (Valuation Officer)* (1952) 45 R & IT 315, Lands Tribunal; *Working UDC v Baker (Valuation Officer)* (1959) 4 RRC 330, Lands Tribunal.

6 See eg *Bowes Museum and Park Trustees v Cutts (Valuation Officer)* (1950) 43 R & IT 881, 900, Lands Tribunal; *Holly Lodge Estate Committee v Hope (Valuation Officer)* (1958) 3 RRC 176, Lands Tribunal.

23. Occupation for public purposes. The occupation of property for public purposes, other than those of general national administration[1], is rateable[2]. Thus an education authority is rateable for its schools[3]; a water authority is rateable for its sewage disposal works[4]; and a local authority is rateable for its public conveniences[5], town hall[6], fire station[7], swimming pool[8] or seaside entertainments undertaking[9]. The exemption of property which is dedicated to the use of the public, such as highways, arises[10] because the public, which is not rateable, is held to be in occupation[11].

1 However, county buildings, so far as they are used for other than judicial business, are rateable: *Middlesex County Council v St George's Union Assessment Committee* [1897] 1 QB 64, CA; *Worcestershire County Council v Worcester Union* [1897] 1 QB 480, CA. County buildings used for judges' lodgings are not rateably occupied (*Hodgson v Carlisle Local Board of Health* (1857) 8 E & B 116), but buildings provided for the former assizes in which quarter sessions were also accommodated on payment by the corporation were rateable to the extent of the payment (*Lancashire Justices v Cheetham* (1867) LR 3 QB 14).

2 *Mersey Docks and Harbour Board Trustees v Cameron, Jones v Mersey Docks and Harbour Board Trustees* (1865) 11 HL Cas 443; c f *Leith Harbour and Docks Comrs v Inspector of the Poor* (1866) LR 1 Sc & Div 17, HL; *Williams v Neath Assessment Committee* (1935) 154 LT 261, DC (sub-post office).

3 *West Bromwich School Board v West Bromwich Overseers* (1884) 13 QBD 929, CA; *R v London School Board* (1886) 17 QBD 738, CA; *Laughlin v Saffron-Hill Overseers* (1865) 12 LT 542; *London School Board v Wandsworth and Clapham Unions Assessment Committee* (1900) 16 TLR 137, DC. As to the rating of

educational premises see EDUCATION vol 15(2) (2006 Reissue) para 1428 et seq; and see *Kent County Council v Ashford Borough Council* [1999] RA 367, [1999] All ER (D) 893, CA.

4 *Burton-upon-Trent Corpn v Burton-upon-Trent Union Assessment Committee and Stretton Overseers* (1889) 24 QBD 197, CA; *Leicester Corpn v Beaumont Leys and Barrow-on-Soar Union Assessment Committee* (1894) Ryde & K Rat App 140. See also *Re Burnell (Valuation Officer)* (1959) 53 R & IT 198, Lands Tribunal. Sewers are exempt from rates: see para 50 post.

5 *Erith Borough Council v Draper (Valuation Officer)* (1952) 45 R & IT 315, Lands Tribunal; *Bell (Valuation Officer) v Colne Borough Council* (1958) 6 RRC 36, Lands Tribunal.

6 *Chandler (Valuation Officer) v East Suffolk County Council* (1958) 3 RRC 328, Lands Tribunal.

7 *North Riding of Yorkshire County Council v Bell (Valuation Officer)* (1958) 3 RRC 133, Lands Tribunal.

8 *Working UDC v Baker (Valuation Officer)* (1959) 4 RRC 330, Lands Tribunal; *Smith (Valuation Officer) v St Albans City and District Council* [1978] RA 147, Lands Tribunal. Open air swimming pools in public parks may not be rateable: see *Redbridge London Borough Council v Wand (Valuation Officer)* (1970) 16 RRC 280; and see para 53 post.

9 *Morecambe and Heysham Corpn v Robinson (Valuation Officer)* [1961] 1 All ER 721, [1961] 1 WLR 373, CA; *Lowestoft Borough Council v Scaife (Valuation Officer)* (1960) 7 RRC 296.

10 See para 21 ante.

11 *Hare v Putney Overseers* (1881) 7 QBD 223, CA; *Lambeth Overseers v LCC* [1897] AC 625, HL; *Newham London Borough Council v Hampsher (Valuation Officer)* (1970) 16 RRC 292, Lands Tribunal.

24. Buildings in course of construction or unused. Buildings in course of construction or alteration are not in the beneficial occupation of the building owner[1], although it may be otherwise while repairs or adaptations of a building already in use are in progress[2]. However, parts of a building site may be in the rateable occupation of the building contractor[3]. Statutory provisions now determine the date when newly constructed or altered buildings become liable to be rated[4]. Provision is made in the Local Government Finance Act 1988 for unoccupied non-domestic hereditaments to be rateable[5]. In cases where they do not fall to be so rated, the following situations may still be of some relevance. Mere preservation of a building otherwise unused does not create beneficial occupation[6], and an owner may keep a caretaker in a building without becoming rateable for it[7]; nor is the caretaker rateable[8]. However, the presence of a caretaker may result in beneficial occupation if the caretaker does more than merely look after the building[9].

1 *Arbuckle Smith & Co Ltd v Greenock Corpn* [1960] AC 813, [1960] 1 All ER 568, HL. There is also no actual occupation (as to which see para 14 ante). See also *Liverpool Corpn v Chorley Union Assessment Committee and Withnell Overseers* [1913] AC 197 at 211, HL, per Lord Atkinson; *John Laing & Son Ltd v Assessment Committee for Kingswood Assessment Area* [1948] 2 KB 116, [1948] 1 All ER 943 (affd on other grounds [1949] 1 KB 344, [1949] 1 All ER 224, CA); *Mid-Northamptonshire Water Board v Lee (Valuation Officer)* [1958] AC 68, [1957] 2 All ER 143, HL; *East London Waterworks Co v Edmonton Union* (1904) Ryde & K Rat App 120.

2 *Hackney Borough Council v Metropolitan Asylums Board* (1924) 131 LT 136, DC; *British Advent Missions Ltd v Cane (Valuation Officer) and Westminster City Council* (1954) 48 R & IT 60, Lands Tribunal. The former case may not have been correctly decided on its facts: see *Arbuckle Smith & Co Ltd v Greenock Corpn* [1960] AC 813, [1960] 1 All ER 568, HL.

3 *Mitchell Bros v Workshop Union Assessment Committee* (1904) 69 JP 53; *John Laing & Son Ltd v Assessment Committee for Kingswood Assessment Area* [1948] 2 KB 116, [1948] 1 All ER 943 (affd [1949] 1 KB 344, [1949] 1 All ER 224, CA); *LCC v Wilkins (Valuation Officer)* [1957] AC 362, [1956] 3 All ER 38, HL; *Croydon Corpn v Hardiman (Valuation Officer) and Wates Ltd* [1962] RA 565, where a show house was held to be in the developer's beneficial occupation. See, however, *Cobley (Valuation Officer) v Horlock (Dredging) Co Ltd* [1972] JPL 713, Lands Tribunal, where gravel winning in order to dredge a channel in a harbour was held not to be rateable occupation of the river bed.

4 See para 65 et seq post.

5 See para 62 et seq post.

6 *LCC v Hackney Borough Council* [1928] 2 KB 588; *Arbuckle Smith & Co Ltd v Greenock Corpn* [1960] AC 813, [1960] 1 All ER 568, HL. Cf *Henderson v Liverpool Metropolitan District Council* [1980] RA 238, DC.

7 *R v Morgan* (1834) 2 Ad & El 618n; *North Dublin Union Guardians v Scott* (1850) 1 ICLR 76; *Limerick Union v White* (1852) 2 ICLR 630; *LCC v Hackney Borough Council* [1928] 2 KB 588; *Arbuckle Smith & Co Ltd v Greenock Corpn* [1960] AC 813, [1960] 1 All ER 568, HL.

8 *Yates v Chorlton-upon-Medlock Union* (1883) 48 LT 872, DC; and see para 19 ante.

9 *Bursledon Overseers v Clarke* (1897) 61 JP 261, DC; *Bertie v Walthamstow Overseers* (1904) 68 JP 545, DC; *Hicks v Dunstable Overseers* (1883) 48 JP 326, DC; *LCC v Hackney Borough Council* [1928] 2 KB 588 at 597–598 per Wright J.

25. Buildings used for storing goods or abandoned property. The storage of goods or furniture in a building may amount to beneficial occupation; whether it does or not is a matter of fact and degree[1]. However, if goods are left behind when premises are vacated because they are not worth the cost of their removal, there may be no beneficial occupation[2]. Unoccupied property may now be rateable[3], in which case these earlier cases will be of limited application.

1 *Wirral Borough Council v Lane* [1979] RA 261; *Camden London Borough Council v Peureula Investments Ltd* [1976] RA 169, DC, where there was no beneficial occupation of a theatre where the ceiling had collapsed but the seats and carpets remained. See also *Staley v Castleton Overseers* (1864) 5 B & S 505; *Townley Mill Co (1919) Ltd v Oldham Assessment Committee* [1937] AC 419, [1937] 1 All ER 11, HL; *Gage v Wren* (1902) 67 JP 32, DC.

2 *LCC v Hackney Borough Council* [1928] 2 KB 588; *Offaly County Council and Riordan v Williams* [1930] IR 39; *Holyoak (Valuation Officer) v Sheppard* [1969] RA 524, Lands Tribunal.

3 See para 62 et seq post.

(v) Permanence of Occupation

26. Test of permanency. A degree of permanence is an essential element in rateable occupation[1]. Permanence does not depend on the length of the term for which the land is held, and a weekly tenant, for example, is rateable[2], as may also be licensees and tenants at will[3]; but intermittent or casual occupation, such as that of a site for a travelling show[4], a floating dock shifted from place to place[5], stalls in a market[6] or yacht moorings only put down for part of a year[7], may not be rateable. Contractors' huts placed on a building site for 18 months have been held to be rateable[8]. Under the Local Government Finance Act 1988, liability to the non-domestic rate arises on a daily basis[9], but this does not affect the requirement that occupation must satisfy the test under the cases cited in this paragraph since the old rules relating to occupation still apply[10].

1 *R v St Pancras Assessment Committee* (1877) 2 QBD 581; *Mayor, Aldermen and Councillors of the City of Westminster v The Southern Rly Co* [1936] AC 511 at 529, sub nom *Westminster City Council v Southern Rly Co* [1936] 2 All ER 322 at 326, HL, per Lord Russell of Killowen; *LCC v Wilkins (Valuation Officer)* [1957] AC 362, [1956] 3 All ER 38, HL; *Field Place Caravan Park Ltd v Harding* [1966] 2 QB 484, [1966] 3 All ER 247, CA; *Renore Ltd v Hounslow London Borough Council* (1970) 15 RRC 378, DC; *Cinderella Rockerfellas Ltd v Rudd* [2003] EWCA Civ 529, [2003] 3 All ER 219, [2003] 1 WLR 2423.

2 *Cory v Bristow* (1877) 2 App Cas 262 at 275, HL, per Lord Cairns LC; *Dick Hampton (Earth Moving) Ltd v Lewis (Valuation Officer)* [1976] QB 254, [1975] 3 All ER 946, CA (short-term quarrying operations of six and nine months held rateable). As to the nature and determination of a weekly tenancy see LANDLORD AND TENANT vol 27(1) (2006 Reissue) paras 233–234.

3 See para 15 ante.

4 *R v St Pancras Assessment Committee* (1877) 2 QBD 581 at 588–589 per Lush J; cf *Hall (Valuation Officer) v Darwen Corpn* (1957) 2 RRC 329, Lands Tribunal.

5 *R v Morrison* (1852) 1 E & B 150.

6 *Roberts v Aylesbury Overseers* (1853) 1 E & B 423 at 433; cf *Williams v Wednesbury and West Bromwich Churchwardens and Overseers Union Assessment Committee* (1890) Ryde Rat App (1886–90) 327, DC (exclusive occupation of market on two days a week held rateable); and see MARKETS, FAIRS AND STREET TRADING.

7 *Bradshaw v Davey* [1952] 1 All ER 350, DC (in so far as the ratio decidendi was based on the mooring being a chattel the case must be regarded as doubtful since *LCC v Wilkins (Valuation Officer)* [1957] AC 362, [1956] 3 All ER 38, HL); and see para 27 post.

8 *LCC v Wilkins (Valuation Officer)* [1957] AC 362, [1956] 3 All ER 38, HL. See also *Mitchell Bros v Worksop Union Assessment Committee* (1904) 21 TLR 156, DC (more than a year); *John Laing & Son Ltd v Assessment Committee for Kingswood Assessment Area* [1949] 1 KB 344, [1949] 1 All ER 224, CA. See also *Watson (Valuation Officer) v Thornbury RDC and Miller* (1959) 53 R & IT 107, Lands Tribunal (chalets on

site for at least a year held rateable); *Dick Hampton (Earth Moving) Ltd v Lewis (Valuation Officer)* [1976] QB 254, [1975] 3 All ER 946, CA (six months' and nine months' quarrying operations).

9 See the Local Government Finance Act 1988 s 43(1); and para 60 post. Liability to the rate is incurred in respect of any day in a year, but only if all the ingredients of occupation exist.

10 See ibid s 65(2); and para 13 ante.

(vi) Incorporeal Rights and Chattels

27. Easements and exclusive licences. The mere enjoyment of an easement over land does not itself constitute rateable occupation[1], but a person may be the rateable occupier of land even though the rights granted to him are only in the nature of an easement if the exercise of those rights requires, and brings with it, the exclusive occupation[2]. Under similar conditions, the enjoyment of a licence may be such as to confer rateable occupation[3].

A person may be in rateable occupation of land for the purpose of enjoying an easement, even if others, including the grantor and persons deriving title from him, also have rights of user of another kind[4]. A user of land in a certain way may amount to rateable occupation if the person so using it can prevent any other person from using it in the same way[5], but not if the grantor reserves a right to a similar user[6].

1 *R v The Co of Proprietors of the Trent and Mersey Navigation* (1825) 4 B & C 57; *Doncaster Union Assessment Committee v Manchester, Sheffield and Lincolnshire Rly Co* (1894) 71 LT 585, HL; *R v The Co of Proprietors of the Mersey and Irwell Navigation* (1829) 9 B & C 95; *Liverpool Corpn v Chorley Union Assessment Committee and Withnell Overseers* [1913] AC 197 at 206, HL, per Lord Atkinson. As to the characteristics of easements see EASEMENTS.

2 *Doe d R v Archbishop of York* (1849) 14 QB 81; *Talargoch Mining Co v St Asaph Union* (1868) LR 3 QB 478; *Southport Corpn v Ormskirk Union Assessment Committee* [1894] 1 QB 196, CA; *Holywell Union and Halkyn Parish v Halkyn District Mines Drainage Co* [1895] AC 117, HL; *Margate Corpn v Pettman* (1912) 106 LT 104, DC. It is on this principle that public utility companies are rateable for their pipes: *R v Bath Corpn* (1811) 14 East 609; *R v Rochdale Waterworks Co* (1813) 1 M & S 634; *R v Birmingham Gas-Light and Coke Co* (1823) 1 B & C 506; *R v Brighton Gas Light Co* (1826) 5 B & C 466; *R v Chelsea Water Works Co* (1833) 5 B & Ad 156; *R v West Middlesex Waterworks* (1859) 1 E & E 716; *London and North Western Rly Co v Giles* (1869) 33 JP 776; *Liverpool Corpn v Birkenhead Union* (1905) 70 JP 146. The rating of public utility undertakings is now covered by special statutory provisions: see paras 99–101 post.

3 *Mayor, Aldermen and Councillors of the City of Westminster v The Southern Rly Co* [1936] AC 511 at 533, sub nom *Westminster City Council v Southern Rly Co* [1936] 2 All ER 322 at 329, HL, per Lord Russell of Killowen (bookstalls on a railway station); *R v Stevens and Anderson* (1865) 12 LT 491; *Kittow v Liskeard Union* (1874) LR 10 QB 7; *Roads v Trumpington Overseers* (1870) LR 6 QB 56; *R v Whaddon* (1875) LR 10 QB 230. The three cases last cited referred to licences to dig for various minerals, as to which see MINES, MINERALS AND QUARRIES vol 31 (2003 Reissue) paras 349–354. Such a licence does not, however, constitute rateable occupation if it is not in fact exercised: *R v Fayle* (1856) 4 WR 460. See also *Re Nott and Cardiff Corpn* [1918] 2 KB, 146, CA (revsd on other points sub nom *Brodie v Cardiff Corpn* [1919] AC 337, HL) (railway taken over for construction of reservoir); *Ryan Industrial Fuels Ltd v Morgan (Valuation Officer)* [1965] 3 All ER 465, [1965] 1 WLR 1347, CA.

4 *Holywell Union and Halkyn Parish v Halkyn District Mines Drainage Co* [1895] AC 117, HL, where the company was held rateable for a tunnel constructed by it for the purpose of mine drainage, even though the owner and his lessees had the right to use the tunnel for tramways; *Mayor, Aldermen and Councillors of the City of Westminster v The Southern Rly Co* [1936] AC 511, sub nom *Westminster City Council v Southern Rly Co* [1936] 2 All ER 322, HL (storage depots in railway yard).

5 Thus user by a wagon-way (*R v Bell* (1798) 7 Term Rep 598), by a tramway (*Pimlico Tramway Co v Greenwich Union* (1873) LR 9 QB 9), or by telegraph and telephone apparatus (*Electric Telegraph Co v Salford Overseers* (1855) 11 Exch 181; *Lancashire Telephone Co v Manchester Overseers* (1884) 14 QBD 267, CA) creates rateability. The tenant of a sewage farm was rateable for the whole, including the sewage carriers and works, even though the lessors retained the right to inspect, alter, and repair them (*Stourbridge Main Drainage Board v Seisdon Union* (1902) 66 JP 372); and the tenant of the tolls was rateable for a swing-bridge, even though the grantors had the right to open it (*Percy v Hall* (1903) 67 JP 293, DC). Swing-bridges are now statutorily exempt from non-domestic rating: see the Local Government Finance Act 1988 s 51, Sch 5 para 18A (as added); and para 57 post.

6 *R v Jolliffe* (1787) 2 Term Rep 90. See also *Mogg v Yatton Overseers* (1880) 6 QBD 10, DC, where, however, the rights reserved were very narrow.

28. Moorings, artificial watercourses, towing-paths and harbours. Land may be rateably occupied by means of moorings, if these are fixed in one place and the person rated has the exclusive right of using them[1], but not if they are in fact constantly removed[2], or are mere accessories to a floating vessel[3], or if the right to use them is not exclusive[4].

A canal or navigation company is in rateable occupation of a canal or an artificial cut[5] (with the towing-path[6]), but not of a natural river or the towing-path alongside, unless the soil is vested in the company[7]. A towing-path which is so vested is capable of rateable occupation, although the natural river which it adjoins is not[8]. There may also be a rateable occupation of a sluice in a natural river[9].

A harbour authority is in rateable occupation of any portion of the harbour of which the soil is vested in it[10].

1 *R v Leith* (1852) 1 E & B 121; *Forrest v Greenwich Overseers* (1858) 8 E & B 890; *Cory v Bristow* (1877) 2 App Cas 262, HL. Cf *Grant v Oxford Local Board* (1868) LR 4 QB 9, which is in conflict with these decisions; but it would seem that, in view of *Cory v Bristow* supra, this case cannot be relied on. The licensee of moorings on a river bank was held rateable in *Gooding v Benfleet UDC* (1933) 49 TLR 298.

The Secretary of State (or the Welsh Ministers, as the case may be) may make regulations for the way in which two or more non-domestic moorings owned by the same person but separately occupied are to be rated: see the Local Government Finance Act 1988 s 64(3A), (3B) (as added); and para 34 post. As to the rating of ferry landing places in relation to which tolls are taken see para 29 post. As to the Secretary of State and the Welsh Ministers see para 3 ante.

2 *R v Morrison* (1852) 1 E & B 150; *Manchester, Sheffield and Lincolnshire Rly Co v Governor and Guardians of the Kingston-upon-Hull Poor* (1896) 60 JP 789, CA; *Bradshaw v Davey* [1952] 1 All ER 350, DC (yacht mooring).

3 *Cory v Churchwardens of Greenwich* (1872) LR 7 CP 499. See also *Cinderella Rockerfellas Ltd v Rudd* [2003] EWCA Civ 529, [2003] 3 All ER 219, [2003] 1 WLR 2423 (vessel moored and berthed on river and used as a night-club was rateable). Swinging moorings are now exempt provided they fall within the provisions of the Local Government Finance Act 1988 s 51, Sch 5 para 18: see para 56 post.

4 *Watkins v Milton-next-Gravesend Overseers* (1868) LR 3 QB 350.

5 As to inland waterways generally see RAILWAYS, INLAND WATERWAYS AND CROSS-COUNTRY PIPELINES para 435 et seq.

6 *R v The Co of Proprietors of the Mersey and Irwell Navigation* (1829) 9 B & C 95; *R v Thomas* (1829) 9 B & C 114; *Bruce v Willis* (1840) 11 Ad & El 463. Land structures and appliances occupied or maintained by a drainage authority are exempt from rates: see the Local Government Finance Act 1988 Sch 5 para 14 (as amended); and para 51 post.

7 *R v The Co of Proprietors of the Mersey and Irwell Navigation* (1829) 9 B & C 95; *R v Thomas* (1829) 9 B & C 114; *R v Aire and Calder Navigation Co* (1829) 9 B & C 820; *Doncaster Union Assessment Committee v Manchester Sheffield and Lincolnshire Rly Co* (1894) 71 LT 585, HL. As to the right of navigation in inland waters generally see WATER vol 49(3) (2004 Reissue) para 759 et seq.

8 *R v London Corpn* (1790) 4 Term Rep 21.

9 *R v Cardington Inhabitants* (1777) 2 Cowp 581; but see, to the contrary, *R v Aire and Calder Navigation Co* (1832) 3 B & Ad 139. It is submitted that the latter decision is unsound.

10 *New Shoreham Harbour Comrs v Lancing* (1870) LR 5 QB 489; *Swansea Union Assessment Committee v Swansea Harbour Trustees* (1907) 71 JP 497, sub nom *Swansea Harbour Trustees v Swansea Union Assessment Committee* (1907) 1 Konst Rat App 250, HL, where the decision of the King's Bench Division on this point was not questioned on appeal. As to harbour authorities generally see PORTS AND HARBOURS vol 36(1) (2007 Reissue) para 619 et seq.

29. Tolls. Tolls are not rateable per se, that is if they are not a payment for the use of the soil[1]. If, however, a person, as a necessary consequence of his ownership or occupation of land, possesses the right to take tolls and in fact takes them, he is in rateable occupation of the land[2]. Where these conditions are fulfilled, the occupiers or occupying owners of canals, locks and sluices[3], harbours and docks[4], the landing places of a ferry[5] and toll bridges[6] are in rateable occupation of those hereditaments, the value of which should be taken, not as the value of the land merely, but as the value of the land as enhanced by its availability for the purpose of earning the tolls[7].

Lighthouses belonging to or occupied by the Trinity House are exempt from rates by statute[8].

A person having the right to take market tolls has no rateable occupation of land[9] unless the tolls are paid for such privileges as of erecting stalls or of standing carts[10].

1 *R v Nicholson* (1810) 12 East 330; *Williams v Jones* (1810) 12 East 346; *R v Eyre* (1810) 12 East 416; *R v North and South Shields Ferry Co* (1852) 1 E & B 140; *Lewis v Swansea Overseers* (1855) 5 E & B 508. Tolls (so called) levied, without statutory authority, for the privilege of passing through a gate are paid for the right of using the land, and the occupiers are rateable for the land: *R v St George The Martyr, Southwark Inhabitants* (1855) 3 WR 515. A toll thorough is not rateable: *R v Snowdon* (1833) 4 B & Ad 713.

2 The cases which support this positive proposition are cited in notes 3–6 infra. Where the tolls, although received by the occupier, are not received as a necessary consequence of his occupation, they are not an element in rateable occupation: *R v Aire and Calder Navigation Co, Hunslet Mills Case* (1832) 3 B & Ad 533.

3 *R v Cardington Inhabitants* (1777) 2 Cowp 581; *R v Aire and Calder Navigation Co* (1788) 2 Term Rep 660; *R v Page* (1792) 4 Term Rep 543; *R v Staffordshire and Worcestershire Canal Navigation Co* (1799) 8 Term Rep 340; *R v Macdonald* (1810) 12 East 324; *R v Lower Mitton Inhabitants* (1829) 9 B & C 810.

4 *R v Earl of Durham* (1859) 5 Jur NS 1306; *R v Hull Dock Co* (1845) 7 QB 2; *Faversham Navigation Comrs v Faversham Union Assessment Committee* (1867) 31 JP 822; *New Shoreham Harbour Comrs v Lancing* (1870) LR 5 QB 489; *R v Berwick Assessment Committee* (1885) 16 QBD 493; *Swansea Union Assessment Committee v Swansea Harbour Trustees* (1907) 71 JP 497, sub nom *Swansea Harbour Trustees v Swansea Union Assessment Committee* (1907) 1 Konst Rat App 250, HL.

5 *R v North and South Shields Ferry Co* (1852) 1 E & B 140.

6 *R v Barnes Inhabitants* (1830) 1 B & Ad 113; *R v Marquis of Salisbury* (1838) 8 Ad & El 716; *R v Blackfriars Bridge Co* (1839) 9 Ad & El 828; *R v Hammersmith Bridge Co* (1849) 15 QB 369; *R v Bedminster Union* (1876) 1 QBD 503; *Percy v Hall* (1903) 67 JP 293, DC; *Dunham Bridge Co v Retford Assessment Committee* [1949] WN 419, CA.

7 *Faversham Navigation Comrs v Faversham Union Assessment Committee* (1867) 31 JP 822; *Ipswich Dock Comrs v St Peter, Ipswich, Overseers* (1866) 7 B & S 310; *New Shoreham Harbour Comrs v Lancing* (1870) LR 5 QB 489; *Blyth Harbour Comrs v Churchwardens etc of Newsham and South Blyth and Tynemouth Union Assessment Committee* [1894] 2 QB 675, CA: *R v Berwick Assessment Committee* (1885) 16 QBD 493; *Swansea Union Assessment Committee v Swansea Harbour Trustees* (1907) 71 JP 497, sub nom *Swansea Harbour Trustees v Swansea Union Assessment Committee* (1907) 1 Konst Rat App 250, HL; *R v North and South Shields Ferry Co* (1852) 1 E & B 140; cf *Dover Harbour Board v Dover Borough Rating Authority* (1931) 13 R & IT 199, where one board was held not to be in rateable occupation of a landing place, the owners' occupation being paramount, and the passenger dues payable were held to be tolls in gross and not part of the value of the landing place.

8 See the Local Government Finance Act 1988 s 51, Sch 5 para 12 (as amended); and para 55 post. It follows that lighthouses in the hands of bodies other than Trinity House which levy tolls may still be rateable, although it must be exceptional in practice for lighthouse tolls to be levied today. Historically, rulings on the subject contributed to the development of the principles on which the present law relating to tolls is founded: see *R v Rebowe* (1771) cited in Cald Mag Cas at 351; *R v Tynemouth Inhabitants* (1810) 12 East 46; *R v Coke* (1826) 5 B & C 797; *R v Fowke* (1826) 5 B & C 814n.

9 *Oswestry Corpn v Hudd (Valuation Officer)* [1966] 1 All ER 490, [1966] 1 WLR 363, CA; and see MARKETS, FAIRS AND STREET TRADING.

10 *Oswestry Corpn v Hudd (Valuation Officer)* [1966] 1 All ER 490, [1966] 1 WLR 363, CA; and see MARKETS, FAIRS AND STREET TRADING.

30. Rights of common. A right of common is not itself a rateable subject matter[1], but the exercise of such a right over land may bring with it such an exclusive enjoyment of the land as to constitute rateable occupation[2]. If the persons who feed cattle on the land in the exercise of the right are tenants in common for the whole year, they are rateable[3]; if the rights of common are vested in trustees to manage and to receive money paid for the grazing during part of the year, the trustees are rateable[4]. However, a municipal corporation which manages a common on behalf of the freemen is not rateable for the common[5].

1 *Kempe v Spence* (1779) 2 Wm Bl 1244; *R v Churchill* (1825) 4 B & C 750; *R v Alnwick Corpn* (1839) 9 Ad & El 444. As to the different kinds of common see COMMONS vol 6 (2003 Reissue) para 442 et seq. As to exclusive rights of pasture and of foldage see COMMONS vol 6 (2003 Reissue) paras 465–470.

2 *R v Aberavon Inhabitants* (1804) 5 East 453.

3 *R v Watson* (1804) 5 East 480; cf *R v Sudbury Corpn* (1823) 1 B & C 389.

4 *R v Tewkesbury (Trustees for Burgesses)* (1810) 13 East 155. Similar decisions were given where the trustees were a municipal corporation (*R v Sudbury Corpn* (1823) 1 B & C 389; *R v York Corpn* (1837) 6 Ad & El 419); but the status of a corporation having been changed by the Municipal Corporations Act 1835 (repealed), the two cases last cited apparently no longer apply to municipal corporations (*Lincoln Corpn v Holmes Common Overseers* (1867) LR 2 QB 482). See also *Trenfield v Lowe* (1869) LR 4 CP 454.

5 This was held on the ground that the profit à prendre belonging to the freemen exhausted the whole value of the land: *Lincoln Corpn v Holmes Common Overseers* (1867) LR 2 QB 482. If the principle of this decision is good law, it appears to overrule not only *R v Sudbury Corpn* (1823) 1 B & C 389 and *R v York Corpn* (1837) 6 Ad & El 419, but also *R v Tewkesbury (Trustees for Burgesses)* (1810) 13 East 155. It is doubtful, however, how far this principle can be reconciled with those laid down in *Mersey Docks and Harbour Board Trustees v Cameron, Jones v Mersey Docks and Harbour Board Trustees* (1865) 11 HL Cas 443 and *LCC v Churchwardens etc of Erith Parish and Dartford Union Assessment Committee* [1893] AC 562, HL (cited in paras 22–23 ante).

31. Hereditaments arising from rights to use land for certain purposes. For the purposes of the non-domestic rating provisions[1], the right to use land[2] for the purpose of exhibiting advertisements, which is let out or reserved to someone other than the occupier[3] of the land (or, where the land is not occupied for any other purpose, which is let out or reserved to any person other than the owner[4] of the land) is a hereditament[5]. In addition, a right is a hereditament if: (1) it is a right to use any land[6] for the purpose of operating a meter[7] to measure a supply of gas or electricity or such other service as the Secretary of State (in relation to England) or the Welsh Ministers (in relation to Wales) may by order specify[8]; and (2) the meter is owned by a person other than the consumer of the service[9].

1 Ie for the purposes of the Local Government Finance Act 1988 Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 33 et seq post): see s 67(13).

2 For this purposes, 'land' includes a wall or other part of a building and a sign, hoarding, frame, post or other structure erected or to be erected on land: see ibid s 64(11).

3 See para 13 et seq ante. The right to use land for advertising which falls within ibid s 64(2) is to be treated as occupied by the person for the time being entitled to the right: s 65(8). Where land consisting of a hereditament is used, permanently or temporarily, for the exhibition of advertisements or for the erection of a structure used for advertisements, but it is not a hereditament to which s 64(2) applies, and the hereditament is not occupied, it must be treated as occupied by the person permitting it to be used or, if that person cannot be ascertained, its owner: s 65(8A) (added by the Local Government and Housing Act 1989 s 139, Sch 5 paras 1, 34, 79(3)). As to the meaning of 'person' see para 6 note 16 ante.

4 For the meaning of 'owner' see para 13 ante.

5 Local Government Finance Act 1988 s 64(2). For the meaning of 'hereditament' see para 33 et seq post. See also *O'Brien v Secker (Valuation Officer)* [1996] RA 409, 95 LGR 560, CA (advertising hoarding fixed by a ratepayer to a wall of a building under licence from the occupier).

6 For this purpose, 'land' includes a wall or other part of a building: Local Government Finance Act 1988 s 64(11B) (s 64(11A), (11B) added by the Local Government Act 2003 s 66(3)).

7 The Secretary of State in relation to England, and the Welsh Ministers in relation to Wales, may by regulations make provision as to what is to be regarded as being a meter for the purposes of the Local Government Finance Act 1988 s 64(2A) (as added): s 64(11A) (as added: see note 6 supra). At the date at which this volume states the law, no such regulations had been made. As to the making of regulations under the Local Government Finance Act 1988 generally see para 3 ante. For the meanings of 'England' and 'Wales' see para 1 note 2 ante. As to the Secretary of State and the Welsh Ministers see para 3 ante.

8 Ibid s 64(2A)(a) (s 64(2A) added by the Local Government Act 2003 s 66(1)). At the date at which this volume states the law, no such order had been made. As to the making of orders under the Local Government Finance Act 1988 generally see para 3 ante.

9 Local Government Finance Act 1988 s 64(2A)(b) (as added: see note 8 supra).

32. Chattels. In general, stock-in-trade and personal property are not rateable[1]. However, chattels, although not a part of the land, may be rated together with land as one unit of occupation if they are enjoyed with it[2] and enhance its value[3]. On this

principle, contractors' huts[4], a caravan[5], kiosks and showcases[6], moorings[7], material in a colliery tip[8], a lean-to shelter[9], a car port[10], and a floating clubhouse[11] have been held to be rateable.

1 As to property liable to be rated see para 7 ante.
2 The chattel does not have to be enjoyed on the land it is occupied with, but must be sufficiently connected with it: *Ryan Industrial Fuels Ltd v Morgan (Valuation Officer)* [1965] 3 All ER 465, [1965] 1 WLR 1347, CA.
3 *LCC v Wilkins (Valuation Officer)* [1957] AC 362, [1956] 3 All ER 38, HL.
4 *LCC v Wilkins (Valuation Officer)* [1957] AC 362, [1956] 3 All ER 38, HL; *Mitchell Bros Ltd v Worksop Union Assessment Committee* (1904) 1 Konst Rat App 181, DC; *John Laing & Son Ltd v Assessment Committee for Kingswood Assessment Area* [1948] 2 KB 116, [1948] 1 All ER 943 (affd [1949] 1 KB 344, [1949] 1 All ER 224, CA); *Woodward (Valuation Officer) v Brading and Blundell Ltd* (1951) 44 R & IT 758. See also *Farrans Ltd v Valuation Comr* [1970] RA 147, Lands Tribunal; *Cartwright v Shaw* (1954) 44 R & IT 678, Lands Tribunal.
5 *Field Place Caravan Park Ltd v Harding* [1966] 2 QB 484, [1966] 3 All ER 247, CA; *Baker v Horwell and Halton Borough Council* [1975] RA 317, Lands Tribunal.
6 *Mayor, Aldermen and Councillors of the City of Westminster v The Southern Rly Co* [1936] AC 511, sub nom *Westminster City Council v Southern Rly Co* [1936] 2 All ER 322, HL.
7 *Cory v Bristow* (1877) 2 App Cas 262, HL (moorings in the bed of the river Thames).
8 *Ryan Industrial Fuels Ltd v Morgan (Valuation Officer)* [1965] 3 All ER 465, [1965] 1 WLR 1347, CA; *Brook v National Coal Board and Burnwell Coal Co Ltd* [1975] RA 367 (spoil heaps worked for shale rateable); but see *National Coal Board v Brook (Valuation Officer)* (1970) 16 RRC 357, where small coal in a spoil heap constituted stock-in-trade and was not rateable.
9 *Knight v Etteridge* [1971] RA 129, Lands Tribunal.
10 *Barton v Paul (Valuation Officer)* (1969) 15 RRC 186.
11 *Thomas v Witney Aquatic Co Ltd* [1972] RA 493, Lands Tribunal (floating clubhouse on a lake held to be rateable as part of a hereditament comprising the lake itself and a strip of land along one shore). In *Westminster City Council v Woodbury (Valuation Officer) and the Yard Arm Club Ltd* [1992] RA 1, [1991] 2 EGLR 173, CA, a floating vessel used as a restaurant, together with the river bed over which it was moored, and the anchors and attachments which secured the vessel by connection to the river bed, were held to be a hereditament in the occupation of the club company, but were held exempt from rates under a local Act, the Port of London Act 1968, which applied to the bed of the river beneath the vessel (as to which see para 37 note 23 post). In *Felgate (Valuation Officer) v Lotus Leisure Enterprises Ltd* [2000] RA 89, Lands Tribunal, a floating restaurant and the moorings securing it to the dock side formed a rateable hereditament together with the dock bed; and in *Cinderella Rockerfellas Ltd v Rudd* [2003] EWCA Civ 529, [2003] 3 All ER 219, [2003] 1 WLR 2423, a vessel housing a nightclub, permanently moored by means of horizontal connection to an adjacent quay, was held to be rateable, together with the riverbed which formed part of the same hereditament.

(vii) The Hereditament

33. Unit to be assessed. For the purposes of the non-domestic rating provisions[1], the unit of assessment is the hereditament, which for the purposes of non-domestic rating is anything which, by virtue of the definition of hereditament in the General Rate Act 1967 (now repealed)[2], would have been a hereditament for the purposes of that Act if the Local Government Finance Act 1988 had not been passed[3]. The General Rate Act 1967 defined hereditament as 'property which is or may become liable to a rate, being a unit of such property which is, or would fall to be, shown as a separate item in the valuation list'[4]. A hereditament is non-domestic if either it consists entirely of property which is not domestic[5], or it is a composite hereditament[6]. A hereditament is a relevant hereditament if it consists of property of any of the following descriptions: (1) lands[7]; (2) coal mines[8]; (3) mines of any other description, other than a mine of which the royalty or dues are for the time being wholly reserved in kind[9]; and (4) any right to use land for the purpose of exhibiting advertisements[10] or for the purpose of operating meters which measure a supply of gas or electricity (or some other specified service) and which are not operated by consumers[11]. All relevant hereditaments must be entered in the local non-domestic rating list[12].

A single property is not necessarily rateable as a whole[13]: where parts of a building are separately occupied, the parts form separate hereditaments. Structural severance of the parts is not essential[14]. However, property in one occupation[15] may in some circumstances form more than one hereditament. Where parts of the property are not within the same curtilage, or are not contiguous[16] to one another[17], or are capable of separate letting[18], or are used for entirely different purposes[19], the parts may form separate hereditaments[20]. Where premises in one occupation are divided by a highway they will form separate hereditaments unless they are so essential in use to one another that they should be regarded as a single hereditament[21].

The Secretary of State (or the Welsh Ministers, as the case may be)[22] may make regulations providing that in prescribed cases[23]: (a) anything which would (apart from the regulations) be one hereditament must be treated for rating purposes as more than one hereditament[24]; and (b) anything which would (apart from the regulations) be more than one hereditament must be treated as one hereditament[25].

1 Ie for the purposes of the Local Government Finance Act 1988 Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 34 et seq post): see s 67(13).

2 As to the historical development of the statutory regime of rating see para 2 ante.

3 See the Local Government Finance Act 1988 s 64(1).

4 See the General Rate Act 1967 s 115(1) (repealed). See also *Vtesse Networks Ltd v Bradford* [2006] EWCA Civ 1339 at [40], [2006] RA 427 at [40] per Sedley LJ ('*The key to the apparently circular definition given by the General Rate Act 1967 s 115(1), which defines a hereditament by its liability to rating, is that it assumes and relies on an existing fund of knowledge of what is and is not capable of being shown as a separate item in the valuation list*'). As to valuation lists see para 118 et seq post. Provision is made for hereditaments to arise out of certain rights associated with land rather than from properties or structures on the land: see para 31 ante.

5 Local Government Finance Act 1988 s 64(8)(a). For the meaning of 'domestic property' in relation to non-domestic rating see para 120 post.

6 Ibid s 64(8)(b). A hereditament is composite if part only of it consists of domestic property: s 64(9).

7 Ibid s 64(4)(a).

8 Ibid s 64(4)(b).

9 Ibid s 64(4)(c). As to rights to work mines generally see MINES, MINERALS AND QUARRIES vol 31 (2003 Reissue) para 363 et seq.

10 Ie a right which is a hereditament by virtue of ibid s 64(2) (see para 31 ante): see s 64(4)(e) (as amended: see note 11 infra).

11 Ibid s 64(4)(e) (amended by the Local Government Act 2003 s 66(2)). The text refers to a right which is a hereditament by virtue of the Local Government Finance Act 1988 s 64(2A) (as added) (see para 31 ante): see s 64(4)(e) (as so amended).

12 See para 123 post. The text refers to the list under ibid s 42 (as amended) (see para 123 post). Once the right is entered in the list, the person entitled to the right is liable to be rated and, in the case of advertising land, this does not depend on whether that right is exercised: see para 31 ante.

13 *Langford v Cole* (1910) 74 JP 229, DC; *Curzon v Westminster Corpn* (1916) 86 LJKB 198, DC; *Holyoak (Valuation Officer) v Sheppard* [1969] RA 524, Lands Tribunal (unused upper floors a separate hereditament); *Moffatt (Valuation Officer) v Venus Packaging Ltd* (1977) 20 RRC 335, Lands Tribunal (occupied part of factory premises treated as separate hereditament from unoccupied part); *British Railways Board v Hopkins (Valuation Officer) and Birmingham District Council* [1981] RA 328, [1982] JPL 187, Lands Tribunal (unoccupied part of multi-storey office building constituted separate hereditament); *Eagle Construction Ltd v Casey (Valuation Officer) and Croydon London Borough Council* [1981] RA 347, [1982] JPL 114, Lands Tribunal (old and new office building a single hereditament); *Post Office v Orkney and Shetland Assessor* [1987] RA 169, Lands Valuation Appeal Court (post office, regional administrative office and sorting office in one premises treated as a single hereditament); *Baker (Valuation Officer) v Citibank NA* [2007] RA 93, Lands Tribunal (each successive increase in floor space constituted in parts of two multi-storey office buildings occupied by a ratepayer created a new hereditament consisting of the enlarged occupation).

14 *Allchurch v Hendon Union Assessment Committee* [1891] 2 QB 436, CA; *Barr (Valuation Officer) v Manley and Regulus Ltd* (1960) 53 R & IT 213, Lands Tribunal.

15 As to occupation see para 12 et seq ante.

16 Premises are not contiguous unless all connect with one another: see *Ind Coope Ltd v Burton-upon-Trent County Borough Council and Thomas (Valuation Officer)* [1961] RVR 341, Lands Tribunal.

17 *Gilbert (Valuation Officer) v S Hickinbottom & Sons Ltd* [1956] 2 QB 40, [1956] 2 All ER 101, CA; *Spillers Ltd v Cardiff Assessment Committee and Pritchard (Cardiff Revenue Officer)* [1931] 2 KB 21. See also *Rawlence v Hursley Union* (1877) 3 Ex D 44, DC; *Whiteley v Fulham Union* (1895) Ryde & K Rat App 5; *Consett Overseers v Durham County Council* (1922) 87 JP 1, DC; *Hudson's Bay Co v Thompson (Valuation Officer)* (1957) 2 RRC 211, Lands Tribunal (this point, decided by the Lands Tribunal, was not raised on appeal: see [1960] AC 926, [1959] 3 All ER 150, HL); *English, Scottish and Australian Bank Ltd v Dyer (Valuation Officer)* (1958) 4 RRC 27, Lands Tribunal; *Wylie and Lockhead Ltd v Glasgow Assessor* (1933) 18 R & IT 93; *Watkins v Herefordshire Assessment Committee* (1935) 154 LT 262, DC.

18 *Standen (Valuation Officer) v Glaxo Laboratories Ltd* (1957) 1 RRC 338, Lands Tribunal; *Spencer (Valuation Officer) and Thurrock UDC v Thames Board Mills Ltd* (1954) 47 R & IT 809, Lands Tribunal. The fact that several parts are capable of separate occupation does not necessarily involve a separation of the assessment when all are occupied together: see *Burton v Marshall (Valuation Officer)* (1966) 12 RRC 128, Lands Tribunal (on appeal (1966) 15 RRC 1, CA); *May v Rotherham Metropolitan Borough Council* [1990] RVR 98, 154 JP 683; *Coventry and Solihull Waste Disposal Co Ltd v Russell (Valuation Officer)* [2000] 1 All ER 97, [1999] 1 WLR 2093, [2000] RA 1, HL.

19 *North Eastern Rly Co v York Union* [1900] 1 QB 733; *English, Scottish and Australian Bank Ltd v Dyer (Valuation Officer)* (1958) 4 RRC 27, Lands Tribunal. See also *Watkins v Herefordshire Assessment Committee* (1935) 154 LT 262, DC; *Morley (Valuation Officer) v Society for Promoting Christian Knowledge* (1960) 53 R & IT 326, Lands Tribunal; *Murdoch (Valuation Officer) v Lanes (Costumiers) Ltd* (1959) 52 R & IT 456, Lands Tribunal.

20 *Gilbert (Valuation Officer) v S Hickinbottom & Sons Ltd* [1956] 2 QB 40, [1956] 2 All ER 101, CA. See also *Glasgow University v Glasgow Assessor* 1952 SC 504; *Re Bellamy (Valuation Officer) and Hinckley UDC Appeal* (1952) 45 R & IT 691; *Spencer (Valuation Officer) and Thurrock UDC v Thames Board Mills Ltd* (1954) 47 R & IT 809, Lands Tribunal; *Sussex Caravan Parks Ltd v Richardson (Valuation Officer)* [1961] 1 All ER 731, [1961] 1 WLR 561, CA; *Scaife (Valuation Officer) v Birds Eye Foods Ltd* [1962] RVR 298, Lands Tribunal; *Leeds University v Leeds City Council and Burge (Valuation Officer)* [1962] RVR 311, Lands Tribunal; and see *Trafford Metropolitan Borough Council v Pollard (Valuation Officer)* [2007] RA 49, Lands Tribunal (a sports centre, built within school grounds but not under the management of the school, was held to be a single hereditament together with the school for the purposes of the Non-Domestic Rating (Miscellaneous Provisions) (No 2) Regulations 1989, SI 1989/2303 (as amended) (see note 23 infra)).

21 *Gilbert (Valuation Officer) v S Hickinbottom & Sons Ltd* [1956] 2 QB 40, [1956] 2 All ER 101, CA; *Spillers Ltd v Cardiff Assessment Committee and Pritchard (Cardiff Revenue Officer)* [1931] 2 KB 21. In the following cases the premises divided by the highway were held to form one hereditament: *Gilbert (Valuation Officer) v S Hickinbottom & Sons Ltd* supra (bakery and repair shop); *Catton & Co Ltd v Burge (Valuation Officer)* (1957) 1 RRC 343, Lands Tribunal (foundry and pattern store); *Leicester City Council v Burkitt (Valuation Officer) and Chilprufe Ltd* (1958) 3 RRC 45, Lands Tribunal (factory and special packing department); *Burkitt (Valuation Officer) v Fielding and Johnson Ltd* (1958) 4 RRC 128, Lands Tribunal (mill and garage, wool store, machinery store, canteen and cycle shed); *Hughes (Valuation Officer) v Imperial Chemical Industries Ltd* (1958) 4 RRC 190, Lands Tribunal (paint factory and stores, fire appliance house and fitter's shop); *Pritchard (Valuation Officer) v William Crawford & Sons Ltd* (1959) 4 RRC 351, Lands Tribunal (factory and vehicle depot, joiner's shop and store); *Newbold (Valuation Officer) v Bibby and Baron Ltd* (1959) 4 RRC 345, Lands Tribunal (factory and garage, and stores); *Wilkins (Valuation Officer) v Martineaus Ltd* (1959) 5 RRC 1, Lands Tribunal (sugar refinery and drum store); *Burton Latimer UDC v Weetabix Ltd and Lee (Valuation Officer)* (1958) 3 RRC 270, Lands Tribunal (factory and land used for warehouse and sports ground).

In the following cases the premises were held to form more than one hereditament: *Rennick (Valuation Officer) v Weathershields Ltd* (1957) 1 RRC 185, Lands Tribunal (factory storage premises and packing and dispatch department); *Standen (Valuation Officer) v Glaxo Laboratories Ltd* (1957) 1 RRC 338, Lands Tribunal (factory and car park); *Carborundum Co Ltd v Duckworth (Valuation Officer)* (1957) 2 RRC 245, Lands Tribunal (factory and laboratory); *John Dickinson & Co Ltd v Presland (Valuation Officer)* (1958) 4 RRC 159, Lands Tribunal (mill and canteen and cycle shed). See also *JW Barker Ltd v Westbury (Valuation Officer)* (1951) 44 R & IT 458, Lands Tribunal; *Re Bellamy (Valuation Officer) and Hinckley UDC Appeal* (1952) 45 R & IT 691, Lands Tribunal; *Spencer (Valuation Officer) and Thurrock UDC v Thames Board Mills Ltd* (1954) 47 R & IT 809, Lands Tribunal; *Raven v Enfield Cables Ltd* (1960) 53 R & IT 422; *Butterley Co Ltd v Tasker (Valuation Officer)* [1961] 1 All ER 574, [1961] 1 WLR 300, CA; *Edwards (Valuation Officer) v BP Refinery (Llandarcy) Ltd* [1974] RA 1, Lands Tribunal (pipelines separately rateable from refinery); *Rank Xerox (UK) Ltd v Johnson (Valuation Officer)* [1987] RA 139, [1986] 2 EGLR 226, Lands Tribunal.

22 As to the Secretary of State and the Welsh Ministers see para 3 ante.

23 Local Government Finance Act 1988 s 64(3). 'Prescribed', in the context of regulations, means prescribed by the regulations: s 146(6). As to the making of regulations under the Local Government Finance Act 1988 generally see para 3 ante. Regulations under s 64(3) may include rules for ascertaining: (1) whether the different hereditaments or the one hereditament (as the case may be) must be treated as

occupied or unoccupied (s 65(4)(a)); (2) who is to be treated as the owner or occupier of the different hereditaments or the one hereditament (as the case may be) (s 65(4)(b)).

As to the regulations so made see the Non-Domestic Rating (Miscellaneous Provisions) Regulations 1989, SI 1989/1060 (amended by SI 1989/2303; SI 1993/616; SI 1996/619); the Non-Domestic Rating (Miscellaneous Provisions) (No 2) Regulations 1989, SI 1989/2303 (amended by SI 1991/2906; SI 1993/544; SI 1993/616; SI 1994/3122; SI 2000/532; SI 2000/908; SI 2004/1000; SI 2004/1494); the Non-Domestic Rating (Caravan Sites) Regulations 1990, SI 1990/673 (amended by SI 1991/471); the Non-Domestic Rating (Ports of London and Tilbury) Regulations 1991, SI 1991/2906; the Non-Domestic Rating (Telecommunications Apparatus) (England) Regulations 2000, SI 2000/2421; the Non-Domestic Rating (Telecommunications Apparatus) (Wales) Regulations 2000, SI 2000/3383; the Central Rating List (Wales) Regulations 2005, SI 2005/422 (amended by SI 2005/3050); the Non-Domestic Rating (Communications and Light Railways) (England) Regulations 2005, SI 2005/549; and the Central Rating List (England) Regulations 2005, SI 2005/551 (amended by SI 2005/3050; SI 2006/495).

24 Local Government Finance Act 1988 s 64(3)(a). In relation to any hereditament which consists of or includes a dock or harbour undertaking carried on under authority conferred by or under any enactment, and in relation to which on the relevant day certain conditions are satisfied, see the Non-Domestic Rating (Miscellaneous Provisions) (No 2) Regulations 1989, SI 1989/2303, reg 5 (amended by SI 1991/2906; SI 1993/616; SI 1994/3122); and see *Barratclough (Valuation Officer) v Tees and Hartlepool Port Authority* [2004] RA 1, Lands Tribunal (hereditament occupied by harbour undertaking comparable with land in general rather than with statutory undertaking land).

25 Local Government Finance Act 1988 s 64(3)(b). In relation to cross-boundary property see the Non-Domestic Rating (Miscellaneous Provisions) Regulations 1989, SI 1989/1060, reg 6 (amended by SI 1993/616); and in relation to certain hereditaments which consist of or include a dock or harbour see the Non-Domestic Rating (Miscellaneous Provisions) (No 2) Regulations 1989, SI 1989/2303, reg 5 (as amended: see note 24 supra).

34. Multiple moorings may be treated as one hereditament. For the purposes of the non-domestic rating provisions[1], the Secretary of State (or the Welsh Ministers, as the case may be)[2] may make regulations[3] providing that where on any land there are two or more moorings which:

(1) are owned by the same person[4];
(2) are not domestic property[5]; and
(3) are separately occupied[6] (or available for separate occupation) by persons other than that person[7],

a valuation officer[8] may determine that, for the purposes of the compilation or alteration of a local non-domestic rating list[9], all or any of the moorings or all or any of them together with any adjacent moorings or land owned and occupied by that person are to be treated as one hereditament[10]. Such regulations may provide that where a valuation officer makes such a determination[11], he must, if prescribed[12] conditions are fulfilled, supply prescribed persons with prescribed information[13]. The information to be supplied is:

(a) a copy of the information shown in the list in respect of the relevant hereditament[14]; and
(b) if it is not apparent from that information, a statement of the number of moorings which are not domestic property and which comprise or are included in the relevant hereditament[15]; and
(c) a statement of the amount of the part of the rateable value of the relevant hereditament which, in the opinion of the valuation officer, is attributable to those moorings[16].

While such a determination is in force: (i) the person who on any day is the owner[17] of the moorings (or the moorings and land) which constitute the hereditament is to be treated for the purposes of determining liability under the provisions relating to occupied, partly occupied or unoccupied hereditaments[18] as being in occupation of all of the hereditament on that day[19]; and (ii) no other person is to be treated for those purposes as being in occupation of all or any part of the hereditament on that day[20].

1 Ie for the purposes of the Local Government Finance Act 1988 Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 35 et seq post): see s 67(13).

2 As to the Secretary of State and the Welsh Ministers see para 3 ante.

3 As to the making of regulations under the Local Government Finance Act 1988 generally see para 3 ante. As to the regulations referred to in the text see the Non-Domestic Rating (Multiple Moorings) Regulations 1992, SI 1992/557; and notes 4–20 infra.

4 Local Government Finance Act 1988 s 64(3A)(a) (s 64(3A), (3B) added by the Local Government Finance Act 1992 s 104, Sch 10 Pt 1 para 2); Non-Domestic Rating (Multiple Moorings) Regulations 1992, SI 1992/557, reg 2(a). As to the meaning of 'person' see para 6 note 16 ante.

5 Local Government Finance Act 1988 s 64(3A)(b) (as added: see note 4 supra); Non-Domestic Rating (Multiple Moorings) Regulations 1992, SI 1992/557, reg 2(b). For the meaning of 'domestic property' in relation to non-domestic rating see para 120 post. As to whether a hereditament is non-domestic see the Local Government Finance Act 1988 s 64(8), (9); and para 33 ante. If the boat is the sole or main residence of an individual, the mooring and the boat, together with any garden, yard, outhouse or other appurtenance belonging to or enjoyed with them, are domestic property: s 66(4) (substituted by the Rating (Caravans and Boats) Act 1996 s 1(3)). This substitution is to be treated as having taken effect from 1 April 1990: see the Rating (Caravans and Boats) Act 1996 s 1(4). As to the relevant retrospective effects upon non-domestic rating lists see also s 1(5), (6). As to the council tax for domestic property see para 227 et seq post.

6 As to occupation see para 12 et seq ante.

7 Local Government Finance Act 1988 s 64(3A)(c) (as added: see note 4 supra); Non-Domestic Rating (Multiple Moorings) Regulations 1992, SI 1992/557, reg 2(c).

8 As to valuation officers see para 6 ante.

9 As to local non-domestic rating lists see para 121 et seq post.

10 Local Government Finance Act 1988 s 64(3A) (as added: see note 4 supra); Non-Domestic Rating (Multiple Moorings) Regulations 1992, SI 1992/557, reg 2.

11 Ie a determination under the Local Government Finance Act 1988 s 64(3A) (as added) (see the text and notes 1–10 supra): see s 64(3B)(a) (as added: see note 4 supra).

12 'Prescribed' in the context of regulations, means prescribed by the regulations: ibid s 146(6).

13 Ibid s 64(3B)(a) (as added: see note 4 supra); Non-Domestic Rating (Multiple Moorings) Regulations 1992, SI 1992/557, reg 4(1). For these purposes, unless the context otherwise requires, 'information' includes accounts, estimates and returns: Local Government Finance Act 1988 s 146(5A) (added by the Local Government and Housing Act 1989 s 139, Sch 5 paras 1, 75, 79(3)).

14 Non-Domestic Rating (Multiple Moorings) Regulations 1992, SI 1992/557, reg 4(2)(a).

15 Ibid reg 4(2)(b). References to the relevant hereditament are references to the single hereditament to which the determination under reg 2 relates: reg 4(5)(b). As to relevant hereditaments see the Local Government Finance Act 1988 s 64 (as amended); and para 7 ante.

16 Non-Domestic Rating (Multiple Moorings) Regulations 1992, SI 1992/557, reg 4(2)(c). This information must be supplied within 28 days from the date on which the list was compiled or altered: reg 4(3). Persons other than the owners, who would have been treated as being in occupation of any part of the relevant hereditament, may require the above information by serving a request on the valuation officer: see reg 5. Where it appears to a valuation officer that information supplied in accordance with reg 4(1) is no longer accurate but no alteration of the local non-domestic rating list is required, he must supply to the owner of the relevant hereditament a statement of the matters referred to in heads (a)–(c) in the text as soon as reasonably practicable: reg 4(4). References to the owner of a hereditament are to the person treated, in accordance with reg 3, as being in occupation of it: see reg 4(5)(a).

17 For these purposes, 'owner' in relation to a mooring, means the person who (if the mooring is let) is entitled to receive rent, whether on his own account or as agent or trustee for any other person, or (if the mooring is not let) would be so entitled if the mooring were let; and 'owned' is to be construed accordingly: see the Local Government Finance Act 1988 s 64(12) (added by the Local Government Finance Act 1992 Sch 10 Pt 1 para 2).

18 Ie for the purposes of the Local Government Finance Act 1988 s 43 (as amended) (occupied hereditaments) (see paras 60, 70 et seq post), s 44A (as added and amended) (partly occupied hereditaments) (see para 61 post) or s 45 (as amended) (unoccupied hereditaments) (see paras 62–63, 78–79 post): see s 64(3B)(b)(i) (as added: see note 4 supra); and the Non-Domestic Rating (Multiple Moorings) Regulations 1992, SI 1992/557, reg 3(a).

19 Local Government Finance Act 1988 s 64(3B)(b)(i) (as added: see note 4 supra); Non-Domestic Rating (Multiple Moorings) Regulations 1992, SI 1992/557, reg 3(a).

20 Local Government Finance Act 1988 s 64(3B)(b)(ii) (as added: see note 4 supra); Non-Domestic Rating (Multiple Moorings) Regulations 1992, SI 1992/557, reg 3(b).

35. Rating of caravan sites. The Rating (Caravan Sites) Act 1976[1] made provision for the rating of caravan sites[2] under the system of rating governed by the General Rate Act 1967 (now repealed)[3] and allowed valuation officers[4] to exercise discretion as to whether a caravan site, or part of a site, should be rated as one hereditament[5]. The 1976 Act has not yet been repealed, but its provisions have been largely repeated (although the discretionary element has been removed) in the Non-Domestic Rating (Caravan Sites) Regulations 1990[6].

Where pitches for caravans[7] on a relevant site[8] would constitute separate hereditaments because they are occupied[9] by persons other than the site operator[10], those pitches[11] must, together with so much of the site as constitutes a hereditament in the occupation of the site operator, be treated as one hereditament occupied by the site operator[12]. Where a local rating list[13] is being compiled or altered and it includes a hereditament consisting of a caravan site[14], the valuation officer[15] must inform the site operator in writing of that fact within one month of the compilation or alteration[16]. The information must also state in writing: (1) how many caravans stationed on pitches which do not consist of domestic property[17] are included in the hereditament[18]; and (2) how much (if any) of the rateable value of the hereditament is attributable to those caravans, together with their pitches[19]. Any person occupying a pitch for a caravan on a relevant site may, after giving reasonable notice to the valuation officer at any reasonable time and without payment, inspect a copy of any such statement supplied to the operator of the site[20].

1 As to which see para 36 post.

2 For the meaning of 'caravan site' in the Rating (Caravan Sites) Act 1976 see para 36 note 6 post.

3 As to the historical development of the statutory regime of rating see para 2 ante.

4 Ie valuation officers exercising powers under the General Rate Act 1967 (repealed). As to valuation officers under the Local Government Finance Act 1988 see para 6 ante.

5 See further para 36 post. For the meaning of 'hereditament' see para 33 et seq ante.

6 Ie the Non-Domestic Rating (Caravan Sites) Regulations 1990, SI 1990/673 (as amended) (see the text and notes 7–21 infra), which came into force on 1 April 1990 (see reg 1). For most purposes, the General Rate Act 1967 has had no effect as regards any time after 31 March 1990 (see para 2 note 4 ante) and, consequently, the Rating (Caravan Sites) Act 1976 would appear to be of little relevance after 1 April 1990. The inference is, therefore, that caravan sites were dealt with under the Rating (Caravan Sites) Act 1976 (which applied certain provisions of the General Rate Act 1967) until the Non-Domestic Rating (Caravan Sites) Regulations 1990, SI 1990/673 (as amended), were enacted.

7 'Caravan' has the same meaning as it has for the purposes of the Caravan Sites and Control of Development Act 1960 Pt I (ss 1–30) (as amended) (see TOWN AND COUNTRY PLANNING vol 46(3) (Reissue) para 1033): Non-Domestic Rating (Caravan Sites) Regulations 1990, SI 1990/673, reg 2(a). For these purposes, a caravan pitch, and any area comprising it, is to be taken as including the caravan for the time being on the pitch if, apart from reg 3, the caravan would be included as part of the rateable hereditament: reg 3(3).

8 For these purposes, 'relevant site' means a caravan site which includes some property which is not domestic and which has an area of 400 square yards or more: ibid reg 2(d). 'Caravan site' means any land in respect of which a site licence is required under the Caravan Sites and Control of Development Act 1960 Pt I (as amended) (see TOWN AND COUNTRY PLANNING vol 46(3) (Reissue) para 1033), or would be so required but for s 2, Sch 1 paras 4, 11, 11A (Sch 1 para 11A as added) (exemption of certain land) (see TOWN AND COUNTRY PLANNING vol 46(3) (Reissue) para 1036): Non-Domestic Rating (Caravan Sites) Regulations 1990, SI 1990/673, reg 2(b).

Where a pitch is occupied by a caravan which is the sole or main residence of an individual, the pitch and the caravan, together with any garden, yard, outhouse or other appurtenance belonging to or enjoyed with them, are domestic property: see the Local Government Finance Act 1988 s 66(3) (substituted by the Rating (Caravans and Boats) Act 1996 s 1(2)). This substitution is to be treated as having taken effect from 1 April 1990: see the Rating (Caravans and Boats) Act 1996 s 1(4). As to the relevant retrospective effects upon non-domestic rating lists see also s 1(5), (6). As to the council tax for domestic property see para 227 et seq post.

9 As to occupation see para 12 et seq ante.

10 'Site operator' means the person who is, for the purposes of the Caravan Sites and Control of Development Act 1960 Pt I (as amended), the occupier of the caravan site (see TOWN AND COUNTRY PLANNING vol 46(3) (Reissue) para 1032): Non-Domestic Rating (Caravan Sites) Regulations 1990, SI 1990/673, reg 2(e).
11 A pitch which is occupied by a charity or trustees for a charity, and which is wholly or mainly used for charitable purposes (whether of that charity or of that and other charities) is not subject to the regulations for rating of caravans: see ibid reg 3(2). As to exemptions for charities see para 71 et seq post.
12 Ibid reg 3(1) (amended by SI 1991/471).
13 As to local non-domestic rating lists see para 121 et seq post.
14 Ie a relevant caravan site to which the Non-Domestic Rating (Caravan Sites) Regulations 1990, SI 1990/673, reg 3 (as amended) applies (see the text and notes 7–12 supra): see reg 4(1).
15 As to valuation officers see para 6 ante.
16 See the Non-Domestic Rating (Caravan Sites) Regulations 1990, SI 1990/673, reg 4(1). As to the compilation and alteration of local rating lists see paras 121 et seq, 128 et seq post.
17 For the meaning of 'domestic property' in relation to non-domestic rating see para 120 post.
18 Non-Domestic Rating (Caravan Sites) Regulations 1990, SI 1990/673, reg 4(1)(a) (amended by SI 1991/471). See also the Caravans (Standard Community Charge and Rating) Act 1991 s 1. Where it appears to a valuation officer that the information supplied is no longer accurate, but no alteration of the local rating list is required, he must inform the site operator of that fact and supply him with a further statement of the matters in the Non-Domestic Rating (Caravan Sites) Regulations 1990, SI 1990/673, reg 4(1)(a), (b) (reg 4(1)(a) as amended) (see heads (1), (2) in the text): reg 4(2).
19 Ibid reg 4(1)(b). See also note 18 supra.
20 Ibid reg 4(3) (amended by SI 1991/471). The text refers to a statement supplied to the operator of the site under the Non-Domestic Rating (Caravan Sites) Regulations 1990, SI 1990/673, reg 4 (as amended): see reg 4(3) (as so amended).

36. Provision made for the discretionary treatment of pitches for caravans. Although provision for the rating of caravan sites[1] is made by the Non-Domestic Rating (Caravan Sites) Regulations 1990[2], the previous regime under the Rating (Caravan Sites) Act 1976, which differs by allowing valuation officers[3] discretion as to whether a caravan site (or part of a site) should be rated as one hereditament[4], has not yet been repealed[5]. It is unlikely that the predecessor regime will have any practical effect in relation to the operation of the system of non-domestic rating under the Local Government Finance Act 1988 and the following is set out for the sake of completeness only.

Accordingly, where, in a caravan site[6] having an area of not less than 400 square yards, pitches for leisure caravans[7] are separately occupied by persons other than the site operator[8] so that the pitches so occupied are separate hereditaments for the purposes of rating[9], the valuation officer may, if he thinks fit[10], in the valuation list treat all or any of those pitches as forming a single hereditament together with so much, if any, of the site as is in the occupation of the site operator[11]. For these purposes, a caravan pitch (and any area comprising it) is to be taken as including the caravan for the time being on the pitch if, but only if, apart from these provisions, the caravan would be included as part of a rateable hereditament[12]. Where any area of a caravan site is treated as a single hereditament, it must be deemed, for the purposes of rating[13], to be a single hereditament in the occupation of the site operator[14].

1 For the meaning of 'caravan site' for these purposes see para 35 note 8 ante.
2 Ie the Non-Domestic Rating (Caravan Sites) Regulations 1990, SI 1990/673 (as amended) (see para 35 ante), which came into force on 1 April 1990 (see reg 1; and see para 35 note 6 ante).
3 As to valuation officers see para 6 ante.
4 For the meaning of 'hereditament' see para 33 et seq ante.
5 See para 35 note 6 ante.
6 For these purposes, 'caravan site' means any land in respect of which a site licence is required under the Caravan Sites and Control of Development Act 1960 Pt I (ss 1–30) (as amended) (see TOWN AND COUNTRY PLANNING vol 46(3) (Reissue) para 1033), or would be so required if s 2, Sch 1 paras 4, 11 (exemption of certain land) (see TOWN AND COUNTRY PLANNING vol 46(3) (Reissue) para 1036) were omitted: see the Rating (Caravan Sites) Act 1976 s 6(b).

7 A 'caravan pitch' is a 'pitch for a leisure caravan' if in accordance with any licence or planning permission regulating the use of the caravan site a caravan stationed on the pitch is not allowed to be used for human habitation throughout the year: see ibid s 6(c). 'Caravan' has the same meaning as it has for the purposes of the Caravan Sites and Control of Development Act 1960 Pt I (as amended) (see TOWN AND COUNTRY PLANNING vol 46(3) (Reissue) para 1033): see the Rating (Caravan Sites) Act 1976 s 6(a).

8 'Site operator' means the person who is, for the purposes of the Caravan Sites and Control of Development Act 1960 Pt I (as amended), the occupier of the caravan site (see TOWN AND COUNTRY PLANNING vol 46(3) (Reissue) para 1032): see the Rating (Caravan Sites) Act 1976 s 6(d). As to the meaning of 'person' see para 6 note 16 ante.

9 Ie the system of rating under the General Rate Act 1967 (now repealed) (see para 2 ante): see the Rating (Caravan Sites) Act 1976 s 1(1).

10 Note the element of discretion which is present in the Rating (Caravan Sites) Act 1976 but not in the Non-Domestic Rating (Caravan Sites) Regulations 1990, SI 1990/673 (as amended) (see para 35 ante).

11 Rating (Caravan Sites) Act 1976 s 1(1).

12 Ibid s 1(2).

13 Ie for the purposes of rating within the meaning of the General Rate Act 1967 (now repealed) (see para 2 ante): see the Rating (Caravan Sites) Act 1976 s 1(3).

14 Ibid s 1(3). As to mixed hereditaments see s 1(4) (amended by the Local Government, Planning and Land Act 1980 ss 47, 194, Sch 34 Pt IX). Provision is made in relation to the alteration of valuation lists: see the Rating (Caravan Sites) Act 1976 s 1(5)–(7), (9). As to the information to be provided for caravanners about the rating of sites mentioned in s 1 (as amended), and the provision that is made for a penalty in cases where the requirements so imposed are contravened, see s 2 (amended by the Criminal Justice Act 1982 ss 37, 38, 46).

(4) EXEMPTIONS FROM NON-DOMESTIC RATING

(i) In general

37. Items exempt from local non-domestic rating. Provision is made to determine the extent (if any) to which a hereditament[1] is exempt from local non-domestic rating for the purposes of the Local Government Finance Act 1988[2], in relation to[3]:

(1) agricultural premises[4];
(2) fish farms[5];
(3) places of religious worship[6];
(4) certain property of the Trinity House[7];
(5) sewers[8];
(6) property of drainage authorities[9];
(7) certain parks[10];
(8) property used for the disabled[11];
(9) air-raid protection works[12];
(10) swinging moorings[13];
(11) road crossings over watercourses[14];
(12) property used for road user charging schemes[15];
(13) property in enterprise zones[16]; and
(14) visiting forces[17].

The Secretary of State (or the Welsh Ministers, as the case may be)[18] may make regulations[19] providing that prescribed[20] hereditaments or hereditaments falling within any prescribed description are exempt[21] to such extent (whether as to the whole or some lesser extent) as may be prescribed[22]. However, this power may not be exercised so as to confer exemption which in his opinion goes beyond certain existing exemptions or privileges[23].

For the purposes of determining how land is used, any land, building or property not in use is to be treated as used in a particular way if it appears that when next in use it will be used in that way[24]. Any land or building which is not occupied is to be treated as

occupied in a particular way if it appears that when next occupied it will be occupied in that way[25]. A person is to be treated as an occupier of any land or building which is not occupied if it appears that when it is next occupied he will be an occupier of it[26].

1 For the meaning of 'hereditament' see para 33 et seq ante.
2 Ie the Local Government Finance Act 1988 Pt III (ss 41–67) (as amended) (non-domestic rating provisions) (see paras 7 et seq ante, 38 et seq post): see s 51.
3 See ibid s 51.
4 See ibid s 51, Sch 5 paras 1–8 (as amended); and paras 43–48 post.
5 See ibid Sch 5 para 9 (as amended); and para 49 post.
6 See ibid Sch 5 para 11 (as amended); and paras 41–42 post.
7 See ibid Sch 5 para 12 (as amended); and para 55 post.
8 See ibid Sch 5 para 13; and para 50 post.
9 See ibid Sch 5 para 14 (as amended); and para 51 post.
10 See ibid Sch 5 para 15 (as amended); and para 53 post.
11 See ibid Sch 5 para 16 (as amended); and para 52 post.
12 See ibid Sch 5 para 17; and para 54 post.
13 See ibid Sch 5 para 18; and para 56 post.
14 See ibid Sch 5 para 18A (as added); and para 57 post.
15 See ibid Sch 5 para 18B (as added); and para 58 post.
16 See ibid Sch 5 para 19; and para 59 post.
17 See ibid Sch 5 para 19A (as added); and para 40 post.
18 As to the Secretary of State and the Welsh Ministers see para 3 ante.
19 Such regulations in their application to a particular financial year (including regulations amending or revoking others) are not effective unless they come into force before 1 January in the preceding financial year: Local Government Finance Act 1988 Sch 5 para 20(5). For the meaning of 'financial year' for these purposes see para 1 note 1 ante. As to the making of regulations under the Local Government Finance Act 1988 generally see para 3 ante. At the date at which this volume states the law no such regulations had been made.
20 'Prescribed' in the context of regulations, means prescribed by the regulations: ibid s 146(6).
21 For the purposes of ibid Sch 5 (as amended), 'exempt' means exempt from non-domestic rating: Sch 5 para 21(1), (2).
22 Ibid Sch 5 para 20(1).
23 See ibid Sch 5 para 20(2). The power to make regulations providing for prescribed hereditaments to be exempt to some extent may not be exercised so as to confer exemption which in the Secretary of State's opinion goes beyond such exemption or privilege (if any) as fulfils the following conditions (see Sch 5 para 20(1), (2)), namely: (1) that the exemption or privilege operated or was enjoyed in practice, immediately before the passing of the Local Government Finance Act 1988 (i e 29 July 1988), in respect of a general rate in its application to the hereditaments prescribed or falling within the prescribed description (see Sch 5 para 20(3)); and (2) that the exemption or privilege was conferred by a local Act or order passed or made on or after 22 December 1925 or was conferred by a local Act or order passed or made before 22 December 1925 and was saved by the General Rate Act 1967 s 117(5)(b) (repealed) (Local Government Finance Act 1988 Sch 5 para 20(4)).

Nothing in a private or local Act passed before the Local Government Finance Act 1988 is to have the effect that a hereditament is exempt from non-domestic rating, or prevent a person being subject to a non-domestic rate, or prevent a person being designated or a description of a hereditament being prescribed under s 53 (as amended) (see para 126 post): s 67(12). This provision operates to remove earlier exemptions in private and local Acts, as the purpose of the Local Government Finance Act 1988 was to provide a comprehensive code for non-domestic rating: see e g *Woodbury (Valuation Officer) v Toby Restaurants Ltd* [1998] RA 315 (floating restaurant complex moored on the River Thames and permanently connected to all main utilities was a hereditament which was removed by the Local Government Finance Act 1988 s 67(12) from exemption by virtue of the Port of London Act 1968, which operated so long as the conditions specified in the 1968 Act were satisfied).
24 Local Government Finance Act 1988 Sch 5 para 21(1), (3).
25 Ibid Sch 5 para 21(1), (4). As to rateable occupation see para 12 et seq ante.
26 Ibid Sch 5 para 21(1), (5). For the meaning of 'occupier' in relation to a hereditament see para 13 ante. As to the meaning of 'person' see para 6 note 16 ante.

38. Crown property. The non-domestic rating provisions[1] apply to the Crown as they apply to other persons[2].

Accordingly, liability to a non-domestic rate in respect of a hereditament[3] is not affected by the fact that: (1) the hereditament is occupied by the Crown or by a person acting on behalf of the Crown or is used for Crown purposes[4]; or (2) the Crown or a person acting on behalf of the Crown is the owner of the hereditament[5]. If any property would consist of two or more Crown hereditaments[6], the property is to be treated for the purposes of Part III of the Local Government Finance Act 1988[7] as if it were a single hereditament occupied by such one of the occupiers[8] as appears to the billing authority[9] to occupy the largest part of the property[10]. For the purpose of deciding the extent (if any) to which a hereditament is a Crown hereditament[11] on a particular day, the state of affairs existing immediately before the day ends is to be treated as having existed throughout the day[12].

1 Ie the Local Government Finance Act 1988 Pt III (ss 41–67) (as amended) (non-domestic rating provisions) (see paras 7 et seq ante, 40 et seq post): see s 65A(1) (as added: see note 2 infra), s 67(13). For these purposes, references to Pt III (as amended) include any subordinate legislation within the meaning of the Interpretation Act 1978 (see STATUTES vol 44(1) (Reissue) para 1381) made under it: see the Local Government Finance Act 1988 s 65A(5)(a) (as so added). As to the making of orders or regulations under the Local Government Finance Act 1988 generally see para 3 ante.

2 Ibid s 65A(1) (s 65A added by the Local Government and Rating Act 1997 s 3). As to the meaning of 'person' see para 6 note 16 ante.

3 For the meaning of 'hereditament' see para 33 et seq ante.

4 Local Government Finance Act 1988 s 65A(2)(a) (as added: see note 2 supra).

5 Ibid s 65A(2)(b) (as added: see note 2 supra). For the meaning of 'owner' in relation to a hereditament see para 13 ante.

6 For these purposes, 'Crown hereditament' means a hereditament:

(1) which is occupied by a Minister of the Crown or government department or by any officer or body exercising functions on behalf of the Crown (ibid s 65A(4)(a) (as added: see note 2 supra)); but

(2) which is not provided or maintained by a local authority or by a police authority established under the Police Act 1996 s 3 (see POLICE vol 36(1) (2007 Reissue) para 139 et seq) (Local Government Finance Act 1988 s 65A(4)(b) (s 65A as so added; s 65A(4)(b) amended by the Criminal Justice and Police Act 2001 s 128(1), Sch 6 Pt 3 para 73).

For these purposes, 'local authority' has the same meaning as in the Local Government Act 1972 (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 24) and includes the Common Council of the City of London: Local Government Finance Act 1988 s 65A(5)(b) (as so added). As to the Common Council of the City of London see LONDON GOVERNMENT vol 29(2) (Reissue) para 51 et seq. The Secretary of State (or the Welsh Ministers, as the case may be) may by order amend s 65A(4)(b) (as added) so as to alter the persons for the time being referred to there: s 65A(6) (as so added). At the date at which this volume states the law, no such order had been made. As to the Secretary of State and the Welsh Ministers see para 3 ante.

7 See note 1 supra.

8 For the meaning of 'occupier' in relation to a hereditament see para 13 ante.

9 As to billing authorities for the purposes of non-domestic rating see para 5 ante.

10 Local Government Finance Act 1988 s 65A(3) (as added: see note 2 supra). This provision does not affect the power conferred by s 64(3) (see para 33 ante): s 65A(7) (as so added).

11 For these purposes, 'Crown hereditament' has the same meaning as in ibid s 65A (as added and amended) (see note 6 supra): s 67(5A) (added by the Local Government and Rating Act 1997 s 33(1), Sch 3 para 26).

12 Local Government Finance Act 1988 s 67(5) (amended by the Local Government and Housing Act 1989 s 139, Sch 5 paras 35(2), 79(3)).

(ii) Diplomatic Immunity and Visiting Forces

39. Persons entitled to immunity. Immunity from rates is enjoyed by foreign states and monarchs. In respect of a diplomatic mission, the sending state and the head of the mission are immune from rates[1]. Diplomatic agents (within certain limitations) and members of the family of a diplomatic agent forming part of his household can also benefit from the immunity[2]; however, the extent to which the immunity from rates will benefit an individual diplomat or his family now that rates are no longer charged in

respect of domestic property is likely to be small[3]. Commonwealth organisations and certain international organisations and their members are immune from rates[4]. The immunity may, however, be waived. Consular premises are exempt from rates, and exemption from all dues and taxes (other than certain indirect taxes) operates as regards consular officers and employees and members of their families forming part of their households, but this does not exempt them from rates on private property. A similar immunity and exemption extends to representatives of members of the Commonwealth and the Republic of Ireland[5].

1 See generally FOREIGN RELATIONS LAW vol 18(2) (Reissue) para 875 et seq.
2 See generally FOREIGN RELATIONS LAW vol 18(2) (Reissue) para 881 et seq.
3 As to council tax in respect of dwellings generally see para 227 et seq post.
4 See generally COMMONWEALTH; and FOREIGN RELATIONS LAW. That diplomatic privilege extends to immunity from rates was recognised in *Novello v Toogood* (1823) 1 B & C 554; *Parkinson v Potter* (1885) 16 QBD 152; *Macartney v Garbutt* (1890) 24 QBD 368; *Re City of Ottawa Corpn and Rockcliffe Park Village Corpn* [1943] SCR 208.
5 See COMMONWEALTH; FOREIGN RELATIONS LAW.

40. Visiting forces. A hereditament[1] is exempt from local non-domestic rating[2] to the extent that it consists of property which is occupied for the purposes of a visiting force[3], or a headquarters[4], in pursuance of arrangements made in that behalf with any government department[5].

Where a contribution in aid of non-domestic rating is made in respect of a hereditament which is exempt from local non-domestic rating by virtue of this exemption[6], the contribution is to be paid to the Secretary of State (or the Welsh Ministers, as the case may be)[7].

1 For the meaning of 'hereditament' see para 33 et seq ante.
2 For the meaning of 'exempt' for these purposes see the Local Government Finance Act 1988 s 51, Sch 5 para 21(1), (2); and see para 37 note 21 ante. As to the non-domestic rating provisions see paras 7 et seq ante, 41 et seq post.
3 For these purposes, 'visiting force' means any such body, contingent or detachment of the forces of any country as is a visiting force for the purposes of any provision of the Visiting Forces Act 1952 (see ARMED FORCES vol 2(2) (Reissue) para 140): Local Government Finance Act 1988 Sch 5 para 19A(2) (Sch 5 para 19A added by the Local Government and Rating Act 1997 s 4).
4 For these purposes, 'headquarters' means an international headquarters or defence organisation designated by an Order in Council under the International Headquarters and Defence Organisations Act 1964 s 1 (see ARMED FORCES vol 2(2) (Reissue) para 150): Local Government Finance Act 1988 Sch 5 para 19A(2) (as added: see note 3 supra).
5 Ibid Sch 5 para 19A(1) (as added: see note 3 supra). It would seem that effect may be given to an exemption which affects part only of a hereditament; a hereditament that is completely exempt under Sch 5 para 19A (as added) is not to be entered into a rating list: see s 42(1); and para 123 post.
6 Ie by virtue of ibid Sch 5 para 19A (as added) (see the text and notes 1–5 supra): s 59 (as substituted and amended: see note 7 infra).
7 Ibid s 59 (substituted by the Local Government and Housing Act 1989 s 139, Sch 5 paras 32, 79(3); and amended by the Local Government and Rating Act 1997 s 33(1), Sch 3 para 24). As to the Secretary of State and the Welsh Ministers see para 3 ante.

(iii) Places of Worship

41. Churches, chapels, church halls etc. A hereditament[1] is exempt from local non-domestic rating[2] to the extent that it consists of any of the following:

(1) a place of public religious worship[3] which belongs to the Church of England[4] or the Church in Wales[5] or is for the time being certified as required by law[6] as a place of religious worship[7];
(2) a church hall[8], chapel hall or similar building[9] used in connection with a place

of public religious worship falling within head (1) above[10] for the purposes of the organisation responsible for the conduct of public religious worship in that place[11].

'Public religious worship' has been held to mean the gathering together of people in a church for the purpose of taking part in an act of public worship[12]. The showing of religious films to an audience as part of a service can constitute public religious worship[13]. However, places of religious worship are not exempt if, even though they are public as opposed to domestic from the worshippers' point of view, they are not in the ordinary sense public because they are not open to all properly disposed persons who wish to be present; in other words, because the public are excluded[14].

1 For the meaning of 'hereditament' see para 33 et seq ante.

2 For the meaning of 'exempt' for these purposes see the Local Government Finance Act 1988 s 51, Sch 5 para 21(1), (2); and see para 37 note 21 ante. As to the non-domestic rating provisions see paras 7 et seq ante, 42 et seq post.

3 For the meaning of 'public religious worship' see the text to notes 12–14 infra.

4 As to the Church of England see ECCLESIASTICAL LAW vol 14 para 313 et seq.

5 Ie within the meaning of the Welsh Church Act 1914 (see ECCLESIASTICAL LAW vol 14 para 322 et seq): see the Local Government Finance Act 1988 Sch 5 para 11(1)(a).

6 Ie certified under the Places of Worship Registration Act 1855: see ECCLESIASTICAL LAW vol 14 para 1191 et seq.

7 Local Government Finance Act 1988 Sch 5 para 11(1)(a). A hereditament that is completely exempt under head (1) in the text is not to be entered in a rating list: see s 42(1); and para 123 post.

As from a day to be appointed, head (1) in the text is substituted so as to refer simply to 'a place of public religious worship': see Sch 5 para 11(1)(a) (prospectively substituted by the Local Government Act 2003 s 68). However, at the date at which this volume states the law, no such day had been appointed.

8 A former church building registered for public worship which was owned by the church and used in connection with it and used by a social club was a church hall for the purposes of obtaining exemption under the General Rate Act 1967 (now repealed) (see para 2 ante): *Swansea City Council v Edwards (Valuation Officer) and Trustees of Our Lady of Lourdes Roman Catholic Church* [1977] RA 209, Lands Tribunal.

Some of the cases cited in this paragraph were decided prior to the coming into force of the Local Government Finance Act 1988 and, therefore, must now be considered in relation to the non-domestic rating provisions in Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 42 et seq post). As to the historical development of rating law and the continuing relevance of the old case law to the current statutory regime see para 2 ante.

9 'Similar building' has been held to include a building used for purposes such as a youth club, religious meetings, sales of work, church socials, a luncheon club, mission offices, living accommodation for staff, a Sunday school, crèche and roof playground (*Trustees of West London Methodist Mission v Holborn Borough Council* (1958) 3 RRC 86), and a Christian Science reading room, committee room and librarian's room (*Board of Directors of Ninth Church of Christ Scientist v Westminster City Council and Cane (Valuation Officer)* (1958) 3 RRC 35, Lands Tribunal), but not a building used as diocesan offices (*Church House Trustees v Dimmick (Valuation Officer)* (1959) 5 RRC 185, Lands Tribunal). Cf *Morley (Valuation Officer) v Society for Promoting Christian Knowledge* (1960) 53 R & IT 326, Lands Tribunal. Premises used partly as a hostel have been held to be within the exemption: *Westminster Roman Catholic Diocese Trustee v Hampsher (Valuation Officer)* [1975] RA 1, Lands Tribunal; and see *Stamp (Valuation Officer) v Birmingham Catholic Archdiocesan Trustees* [1975] JPL 34, Lands Tribunal, where a car park was held exempt although physically separated from the church hall by a road. See also *Mageean v Valuation Comr* [1960] NI 141, NI CA, where a building used by university students of a particular religious denomination for recreation or social purposes was entitled to exemption. Exemption has also been held to extend to a social centre attached to a Roman Catholic church (*Liverpool Roman Catholic Archdiocesan Trustees Inc v Mackay (Valuation Officer)* [1988] RA 90, Lands Tribunal) and to a school in the grounds of a mosque (*Ludkin (Valuation Officer) v Trustees of Anjuman-E-Isthahul Muslimen of UK* [1988] RA 209, Lands Tribunal).

10 Premises used by the diocese of Worcester were held not exempt on the grounds, inter alia, that the hereditament was not connected with a place of religious worship but with all the churches in the diocese: *Church House Trustees v Dimmick (Valuation Officer)* (1959) 5 RRC 185.

11 Local Government Finance Act 1988 Sch 5 para 11(1)(b). A hereditament that is completely exempt under head (2) in the text is not to be entered in a rating list: see s 42(1); and para 123 post.

12 *First Church of Christ Scientist, Seaford v Thompson (Valuation Officer)* (1953) 46 R & IT 783, Lands Tribunal. It has been said that worship must have some, at least, of the following characteristics: submission to the

object worshipped, veneration of that object, praise, thanksgiving, prayer or intercession: see *R v Registrar General, ex p Segerdal* [1970] 2 QB 697 at 709, [1970] 3 All ER 886 at 892, CA, per Buckley LJ, where a 'chapel' of the Church of Scientology was held not to be a place of religious worship for the purposes of the Places of Worship Registration Act 1855. The following cases, decided under the provisions of the Poor Rate Exemption Act 1833 (repealed), may still be relevant on the meaning of 'public religious worship': *Booth v St Martin, Worcester, and Worcester Union Assessment Committee* (1884) 48 JP 441 (selling church newspaper; holding tea meetings); *College Street United Free Church v Edinburgh Parish Council* (1901) 3 F 414, Ct of Sess (mission schools; temperance meetings; church socials); *Walton-le-Dale UDC v Greenwood* (1911) 105 LT 547 (performance of trial scene from the Merchant of Venice); *Hornsey Local Board v Brewis* (1890) 60 LJMC 48, DC (chapel lecture hall); *North Manchester Overseers v Winstanley* [1908] 1 KB 835 at 849, 857, CA (affd on other points sub nom *Winstanley v North Manchester Overseers* [1910] AC 7, HL) (burial ground).

13 *British Advent Missions Ltd v Cane (Valuation Officer) and Westminster City Council* (1954) 48 R & IT 60, Lands Tribunal.

14 *Church of Jesus Christ of Latter-Day Saints v Henning (Valuation Officer)* [1964] AC 420, [1963] 2 All ER 733, HL; *Broxtowe Borough Council v Birch* [1981] RA 215, Lands Tribunal; *Church of Jesus Christ of Latter-Day Saints v Gallagher (Valuation Officer)* [2006] EWCA Civ 1598, [2007] P & CR D14, [2007] RA 1.

42. Administrative and other buildings. A hereditament[1] is exempt from local non-domestic rating[2] to the extent that it is occupied by an organisation responsible for the conduct of public religious worship[3] in a place falling within the statutory definition[4], and: (1) is used for carrying out administrative or other activities relating to the organisation of the conduct of public religious worship in such a place[5]; or (2) is used as an office or for office purposes, or for purposes ancillary to its use as an office or for office purposes[6].

1 For the meaning of 'hereditament' see para 33 et seq ante.

2 For the meaning of 'exempt' for these purposes see the Local Government Finance Act 1988 s 51, Sch 5 para 21(1), (2); and see para 37 note 21 ante. As to the non-domestic rating provisions see paras 7 et seq ante, 43 et seq post. A hereditament that is completely exempt under Sch 5 para 11 (as amended) is not to be entered into a rating list: see s 42(1); and para 123 post.

3 As to which see para 41 ante.

4 Local Government Finance Act 1988 Sch 5 para 11(2) (substituted by the Local Government Finance Act 1992 s 104, Sch 10 para 3). The text refers to a place falling within the Local Government Finance Act 1988 Sch 5 para 11(1)(a) (prospectively substituted) (see para 41 ante): see Sch 5 para 11(2) (as so substituted). The meaning and extent of the exemption under Sch 5 para 11 (as amended) was considered in *Church of Jesus Christ of Latter-Day Saints v Gallagher (Valuation Officer)* [2006] EWCA Civ 1598, [2007] P & CR D14, [2007] RA 1.

5 Local Government Finance Act 1988 Sch 5 para 11(2)(a) (as substituted: see note 4 supra).

6 Ibid Sch 5 para 11(2)(b) (as substituted: see note 4 supra). For these purposes, 'office purposes' includes administration, clerical work and handling money; and 'clerical work' includes writing, book-keeping, sorting papers or information, filing, typing, duplicating, calculating (by whatever means), drawing and the editorial preparation of matter for publication: Sch 5 para 11(3) (added by the Local Government Finance Act 1992 Sch 10 para 3). See *Church of Jesus Christ of Latter-Day Saints v Gallagher (Valuation Officer)* [2006] EWCA Civ 1598, [2007] P & CR D14, [2007] RA 1 (cited in note 4 supra).

(iv) Agricultural Land and Buildings

43. Exemption for agricultural land and buildings. A hereditament[1] is exempt from local non-domestic rating[2] to the extent[3] that it consists of: (1) agricultural land[4]; (2) agricultural buildings[5].

Fish farms are also exempt[6].

1 For the meaning of 'hereditament' see para 33 et seq ante.

2 For the meaning of 'exempt' for these purposes see the Local Government Finance Act 1988 s 51, Sch 5 para 21(1), (2); and see para 37 note 21 ante. As to the non-domestic rating provisions see paras 7 et seq ante, 44 et seq post. A hereditament that is completely exempt under Sch 5 para 1 is not to be entered into a rating list: see s 42(1); and para 123 post.

3 In *Withers v Dalling (Valuation Officer)* [2004] RA 182, Lands Tribunal, the contention was rejected that, so long as the greater part of the hereditament consisted of agricultural land or agricultural buildings for the purposes of the Local Government Finance Act 1988 Sch 5 para 1, the entirety was exempt.

4 Ibid Sch 5 para 1(a). For the purposes of Sch 5 paras 1, 3–7 (paras 3, 7 as amended) (see para 44 et seq post), 'agricultural land' is to be construed in accordance with Sch 5 para 2 (see para 44 post): Sch 5 para 8(1).

5 Ibid Sch 5 para 1(b). For the purposes of Sch 5 para 1 and Sch 5 para 5(5)(b) (see para 46 post), 'agricultural building' is to be construed in accordance with Sch 5 paras 3–7 (paras 3, 7 as amended) (see para 45 et seq post): Sch 5 para 8(2).

6 See ibid Sch 5 para 9 (as amended); and para 49 post.

44. Agricultural land. For the purposes of exempting agricultural land from local non-domestic rating[1], 'agricultural land' is:

(1) land[2] used[3] as arable, meadow or pasture ground[4] only[5];
(2) land used for a plantation or a wood or for the growth of saleable underwood[6];
(3) land exceeding 0.10 hectare used for the purpose of poultry farming[7];
(4) anything which consists of a market garden[8], nursery ground[9], orchard[10] or allotment[11];
(5) land occupied with, and used solely in connection with the use of, a building which (or buildings each of which) is an agricultural building[12].

However, agricultural land does not include:

(a) land occupied together with a house as a park[13];
(b) gardens (other than market gardens)[14];
(c) pleasure grounds[15];
(d) land used mainly or exclusively for purposes of sport or recreation[16]; or
(e) land used as a race course[17].

1 See para 43 ante.

2 'Land' has been held not to include buildings: *Smith v Richmond* [1899] AC 448, HL; *Hall-Mark Hatcheries Ltd v Spencer (Valuation Officer) and Basildon UDC* (1956) 1 RRC 20, Lands Tribunal; *Gilmore (Valuation Officer) v Baker-Carr* [1962] 3 All ER 230, [1962] 1 WLR 1165, CA; *National Pig Progeny Testing Board v Greenall (Valuation Officer)* [1960] 3 All ER 556, [1960] 1 WLR 1265, CA; *W & JB Eastwood Ltd v Herrod (Valuation Officer)* [1971] AC 160, [1970] 1 All ER 774, HL.

Some of the cases cited in this paragraph were decided prior to the coming into force of the Local Government Finance Act 1988 and, therefore, must now be considered in relation to the non-domestic rating provisions in Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 45 et seq post). As to the historical development of rating law and the continuing relevance of the old case law to the current statutory regime see para 2 ante.

3 It is the present use and not, for example, the fact that the land has been purchased with a view to building on it that is relevant: see *Abercorn Estates Co v Edinburgh Assessor* 1935 SC 868.

4 Meadow or pasture ground used for exercising race horses or riding stable horses may be agricultural land: *Tattersalls Ltd v Marlborough Area Assessment Committee* (1930) 11 R & IT 149; *Kirk v Newmarket Assessment Committee* (1937) 26 R & IT 374; *Jarvis v Cambridgeshire Rural Assessment Area Assessment Committee* [1938] 4 All ER 186, DC; *Young (Valuation Officer) v West Dorset District Council* [1977] RA 234, Lands Tribunal.

5 Local Government Finance Act 1988 s 51, Sch 5 para 2(1)(a). Minimal user may be ignored: *Honiton and District Agricultural Association v Wonnacott (Valuation Officer)* (1955) 48 R & IT 589, Lands Tribunal (agricultural show on one day a year). However, if it goes beyond the minimal, a non-agricultural user will defeat the exemption: see e g *Butser Turf and Timber Co Ltd v Petersfield Rating Authority* [1950] 1 All ER 288, DC (turf cutting); *Meriden and Solihull Rating Authority v Tyacke* [1950] 1 All ER 939 (turf cutting); *Lewis v Rubery (Valuation Officer)* (1951) 44 R & IT 566, Lands Tribunal (turf cutting); *Fowler v Tavener (Valuation Officer)* (1953) 47 R & IT 39, Lands Tribunal (spoil tip); *Young (Valuation Officer) v Morris, Barker and Poole* [1961] RVR 784, Lands Tribunal (sheep sales); *Moore v Williamson (Valuation Officer)* [1973] RA 172 (site used for caravan); *United Counties Agricultural Society v Knight (Valuation Officer)* [1973] RA 13, Lands Tribunal (agricultural show involving use of land for 12 days or more); *Hadley & Sons v Dickman (Valuation Officer)* (1978) 21 RRC 324, Lands Tribunal (tipping of land for a drainage scheme); *Re Forrest (Valuation Officer)* [1981] RVR 66, Lands Tribunal (aircraft runway); *Forster v Simpson (Valuation Officer)* [1984] RA 85, Lands Tribunal (racehorse gallops); *Hayes (Valuation Officer) v Loyd* [1985] 2 All ER 313, [1985] 1 WLR 714, HL (point-to-point once a year). Nevertheless, it is

impossible to give the word 'only' its full meaning when the arable, meadow or pasture land is used for sport or recreation within the latter part of the definition of 'agricultural land' (see head (d) in the text), and in such cases the test adopted in practice is that of the primary use: see the cases cited in note 16 infra.

6 Local Government Finance Act 1988 Sch 5 para 2(1)(b). Whether woods are saleable underwoods depends on the mode and object of their cultivation: *Lord Fitzhardinge v Pritchett* (1867) LR 2 QB 135.

7 Local Government Finance Act 1988 Sch 5 para 2(1)(c).

8 As to the meaning of 'market garden' see *Hood Barrs v Howard (Valuation Officer)* (1967) 13 RRC 164, CA. The Lands Tribunal has held that the production of mushroom spawn is not market gardening: *Darlington & Sons (Holdings) Ltd v Langridge (Valuation Officer)* [1973] RA 207. See also *Andsome Garden Products Ltd v King (Valuation Officer)* [1990] RVR 31.

9 *James and Daniel Provan Ltd v Croydon Corpn* (1938) 29 R & IT 277 (cultivation of turf a nursery ground); *Butser Turf and Timber Co Ltd v Petersfield Rating Authority* [1950] 1 All ER 288, DC (turf cutting not a nursery ground). See also *Meriden and Solihull Rating Authority v Tyacke* [1950] 1 All ER 939; *Lewis v Rubery (Valuation Officer)* (1951) 44 R & IT 566, Lands Tribunal; *Thornton (Valuation Officer) v Maxwell M Hart (Glasgow) Ltd* (1957) 2 RRC 156, Lands Tribunal; *Lanarkshire Assessor v Findlay Bros* 1930 SLT 278; *Bomford v Osborne* [1942] AC 14, [1941] 2 All ER 426, HL; *Henshaw (Valuation Officer) v Hatton Borough Council and Watmore* [1984] RVR 237, Lands Tribunal.

10 An orchard occupied together with a house and not used commercially was held to be exempt on its particular facts: *Drury-Heath v Wallace (Valuation Officer)* (1960) 7 RRC 104, CA; but see also *Hood-Barrs v Howard (Valuation Officer)* [1966] RA 212, 12 RRC 118, Lands Tribunal (on appeal on a different point [1967] RA 50, 13 RRC 164, CA).

11 Local Government Finance Act 1988 Sch 5 para 2(1)(d). The reference to allotments includes allotment gardens within the meaning of the Allotments Act 1922 (i e an allotment not exceeding a quarter of an acre in extent which is wholly or mainly cultivated by the occupier for the production of vegetable or fruit crops for his own or his family's consumption: see the Allotments Act 1922 s 22(1); and ALLOTMENTS AND SMALLHOLDINGS vol 2(1) (Reissue) para 301): see the Local Government Finance Act 1988 Sch 5 para 2(1)(d).

12 Ibid Sch 5 para 2(1)(e). The text refers to a building which (or buildings each of which) is an agricultural building by virtue of Sch 5 paras 4–7 (Sch 5 para 7 as amended) (see para 45 et seq post): see Sch 5 para 2(1)(e).

13 Ibid Sch 5 para 2(2)(a). 'Park' is not limited to an ancient legal park: *Earl of Devon v Rees (Valuation Officer)* (1951) 44 R & IT 74, Lands Tribunal. See also the following decisions under other statutory provisions: *Huish Overseers v Surveyor of Taxes* (1897) 61 JP 487 (home farm worked by landowner's bailiff not a park); *Pease v Courtney* [1904] 2 Ch 503 (in relation to what is now the Settled Land Act 1925 s 65); *Re Ripon (Highfield) Housing Confirmation Order 1938, White and Collins v Minister of Health* [1939] 2 KB 838, [1939] 3 All ER 548, CA (in relation to the Housing Act 1936 s 75 (repealed)); *R v Bradford* [1908] 1 KB 365, DC (in relation to what is now the Highways Act 1980 s 45 (as amended)). See also para 53 post.

14 Local Government Finance Act 1988 Sch 5 para 2(2)(b).

15 Ibid Sch 5 para 2(2)(c). However, certain pleasure grounds dedicated to the public are exempt: see para 53 post.

16 Ibid Sch 5 para 2(2)(d). In the case of arable, meadow or pasture ground which is also used for sport or recreation it is difficult to reconcile the wording of the two parts of the definition of 'agricultural land'. The Lands Tribunal has in a number of cases considered whether the agricultural or sporting use was predominant. See *Watkins v Herefordshire Assessment Committee* (1935) 154 LT 262, DC (river with uses for agriculture and fishing held agricultural); *Fenwick v Capstick (Valuation Officer) and Weardale RDC* (1956) 49 R & IT 38, Lands Tribunal (moorland used for grazing and shooting not agricultural); *Waller v Builth RDC* (1954) 47 R & IT 727, Lands Tribunal (land adjoining fishing river held agricultural); *Abernant Hotel and Estate Co Ltd v Davies (Valuation Officer)* (1954) 47 R & IT 694, Lands Tribunal (golf course mown for hay and grazed by animals not agricultural; for a similar decision in Scotland see *Inland Revenue Officer v Assessor for Ross and Cromarty* 1930 SC 404); *Clay and Clay v Newbigging (Valuation Officer)* (1956) 1 RRC 13, Lands Tribunal (river with uses for agriculture and fishing held not agricultural); *Cutts (Valuation Officer) v Viscount Ingleby* (1957) 1 RRC 254, Lands Tribunal (moorland used for grazing and shooting held agricultural); *Bloodworth (Valuation Officer) v Marquis of Exeter* (1958) 4 RRC 135, Lands Tribunal (land used for grazing and for golf held agricultural); *Govett's Executors v Wand (Valuation Officer)* (1959) 5 RRC 232, Lands Tribunal (land used for agriculture and for fishing held rateable); *Garnett v Wand (Valuation Officer)* (1960) 7 RRC 99, CA (pasture land kept mainly for the purposes of fishing held not agricultural); *Young (Valuation Officer) v West Dorset District Council* [1977] RA 234, Lands Tribunal (land used for grazing horses in connection with riding stables held agricultural); *Eden (Valuation Officer) v Grass Ski Promotions Ltd* [1981] RA 7 (pasture land used as grass ski slope on 25 occasions a year held agricultural).

17 Local Government Finance Act 1988 Sch 5 para 2(2)(e). 'Race course' has been held to include a course for motor-cycle racing: *Wimborne and Cranborne RDC v East Dorset Assessment Committee* [1940] 2 KB 420, [1940] 3 All ER 201, CA.

45. Buildings occupied together with agricultural land. For the purposes of exempting agricultural buildings from local non-domestic rating[1], a building[2] is an agricultural building if it is not a dwelling[3], and if: (1) it is occupied together with[4] agricultural land[5] and is used solely in connection with agricultural operations[6] on that or other agricultural land[7]; or (2) it is or forms part of a market garden[8] and is used solely in connection with[9] agricultural operations[10] at the market garden[11].

A building is also an agricultural building if it is used solely in connection with agricultural operations carried on on agricultural land[12] and is occupied either: (a) by the occupiers[13] of all the land concerned[14]; or (b) by individuals each of whom is appointed by the occupiers of the land concerned to manage the use of the building[15], and is: (i) an occupier of some of the land concerned[16]; or (ii) a member of the board of directors or other governing body of a person who is both a body corporate[17] and an occupier of the land concerned[18].

In determining for these purposes[19] whether a building used in any way is solely so used, no account is to be taken of any time during which it is used in any other way, if that time does not amount to a substantial part of the time during which the building is used[20].

1 See para 43 ante.

2 For these purposes, 'building' includes a separate part of a building: Local Government Finance Act 1988 s 51, Sch 5 para 8(4).

'Building' in this context has been held not to be restricted to enclosures of brick and stonework, and may include structures which would not be considered as buildings under other statutes: see *Shaw v Borrett (Valuation Officer)* [1967] RA 90, Lands Tribunal, where a timber framed poultry house clad with timber and asbestos was held to be an agricultural building.

Some of the cases cited in this paragraph were decided prior to the coming into force of the Local Government Finance Act 1988 and, therefore, must now be considered in relation to the non-domestic rating provisions in Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 46 et seq post). As to the historical development of rating law and the continuing relevance of the old case law to the current statutory regime see para 2 ante.

3 Ibid Sch 5 para 3. 'Dwelling' has a broader meaning than dwelling house: see *Winterton (Valuation Officer) v Friday Bridge Agricultural Camp Ltd* [1974] RA 309, where seasonal accommodation for fruit pickers was held to be a dwelling, not an agricultural building.

4 For one building to be 'occupied together with' agricultural land or another building the two must be in the same occupation and the activities must be jointly controlled or managed; there is no conclusive geographical test, but as it is necessary to show that the two are occupied together 'so as to form in a real sense a single agricultural unit' propinquity and distance may give a good indication: *Farmer (Valuation Officer) and Hambleton District Council v Buxted Poultry Ltd* [1993] AC 369, [1993] RA 1, HL. In earlier cases, including one in the House of Lords (*W & JB Eastwood Ltd v Herrod (Valuation Officer)* (1967) 13 RRC 108, [1968] RA 82, Lands Tribunal; on appeal [1971] AC 160, [1970] 1 All ER 774, HL) separation by a distance of a number of miles was not considered fatal to exemption: see eg *Plumpton (Valuation Officer) v Treasures Farms (Ludlow) Ltd* [1965] RA 313, 11 RRC 247; *GC Taylor (Farms) Ltd v Perth and Kinross Assessor* 1962 SC 444; *Hilleshog Sugar Beet Breeding Co Ltd v Wilkes (Valuation Officer)* (1971) 17 RRC 275; *Maurice E Taylor (Merchants) Ltd v Commissioner of Valuation* [1981] NI 236; *Handley (Valuation Officer) v Bernard Matthews plc* [1988] RA 222. These cases must now be read in the light of *Farmer (Valuation Officer) and Hambleton District Council v Buxted Poultry Ltd* supra.

The building and land must be in the same occupation: *Perrins v Draper* [1953] 2 All ER 863, [1953] 1 WLR 1178, CA, where dairy buildings were not exempt as the milk was produced on an adjoining farm in separate occupation. See also *Ellerby v March (Valuation Officer)* (1953) 46 R & IT 718, Lands Tribunal (on appeal [1954] 2 QB 357, [1954] 2 All ER 375, CA); *Evans v Day (Valuation Officer)* [1967] RA 266, Lands Tribunal, where a building used for the maintenance of agricultural machinery was not exempt as the machines were used on land in other occupation; *Hall-Mark Hatcheries Ltd v Spencer (Valuation Officer) and Basildon UDC* (1956) 1 RRC 20, where hatchery buildings were not exempt as the eggs were produced on another farm.

5 For the meaning of 'agricultural land' see para 43 note 4 ante.

6 As to which see note 10 infra.

7 Local Government Finance Act 1988 Sch 5 para 3(a) (substituted by the Local Government Act 2003 s 67(1), (2)). The Local Government Finance Act 1988 Sch 5 para 3(a) (as substituted) is worded so as to apply to 'operations on that or other agricultural land' in order to reflect modern farming practices whereby farmers work on other agricultural land, perhaps on a share or contract basis, or through the pooling of resources or machinery.

8 Glasshouses and cucumber frames may be buildings being or forming part of a market garden: *Purser v Worthing Local Board of Health* (1887) 18 QBD 818, CA; *Godber v Bedford Assessment Committee* (1929) 10 R & IT 177; *Jagger v Hayter (Valuation Officer)* (1966) 12 RRC 351, Lands Tribunal. Rooms used for the production of mushroom spawn do not constitute a market garden (*Darlington & Sons (Holdings) Ltd v Langridge (Valuation Officer)* [1973] RA 207), although the growing of mushrooms is an agricultural operation (*J Beveridge & Co Ltd v Perth and Kinross Assessor* [1967] RA 482). As to the meaning of 'market garden' see the relevant cases cited in para 44 note 8 ante.

9 In *W & JB Eastwood Ltd v Herrod (Valuation Officer)* (1967) 13 RRC 108, [1968] RA 82, Lands Tribunal (on appeal [1971] AC 160, [1970] 1 All ER 774, HL), intensive poultry farming buildings were held not to be occupied together with agricultural land on which 4% of the poultry's feed was grown because the use of the building was not ancillary to the operations on the land.

10 'Agricultural operations' has been held to mean operations by way of cultivating the soil or rearing livestock: *Gilmore (Valuation Officer) v Baker-Carr* [1962] 3 All ER 230 at 232, [1962] 1 WLR 1165 at 1172, CA, per Lord Denning MR. Pig raising to collect statistical material to assist farmers is an agricultural operation: *National Pig Progeny Testing Board v Greenall (Valuation Officer)* [1960] 3 All ER 556, [1960] 1 WLR 1265, CA; *National Pig Progeny Testing Board v Stirlingshire Assessor* 1959 SC 343. See also *Hallam v James (Valuation Officer)* (1958) 4 RRC 142, Lands Tribunal (mink farming an agricultural operation); *J Beveridge & Co Ltd v Perth and Kinross Assessor* [1967] RA 482 (growing of mushrooms an agricultural operation); cf *Darlington & Sons (Holdings) Ltd v Langridge (Valuation Officer)* [1973] RA 207; *Perth and Kinross Assessor v Scottish Milk Marketing Board* 1963 SLT 109 (extraction of semen for artificial insemination not an agricultural operation); *Priestner v Avery (Valuation Officer)* [1964] RA 143, Lands Tribunal. The grazing of thoroughbred racehorses is not an agricultural operation: *Whitsbury Farm and Stud Ltd v Hemens (Valuation Officer)* [1988] AC 601, [1988] 1 All ER 72, HL. Agricultural operations may also include operations reasonably necessary to make the product marketable or disposable for profit: *W & JB Eastwood v Herrod (Valuation Officer)* [1971] AC 160, [1970] 1 All ER 774, HL; *Midlothian Assessor v Buccleuch Estates Ltd* 1962 SC 453; *Home Grown Fruits Ltd v Paul (Valuation Officer)* [1974] RA 329, Lands Tribunal (marketing operations of a fruit farm syndicate held an agricultural operation); *Hinks & Sons v Ackland (Valuation Officer)* (1951) 44 R & IT 517, Lands Tribunal (buildings and sale ring for auctioning animals fattened on occupier's land held used for agricultural operations); *Thomas (Valuation Officer) v Kenneth Beeston Farms Ltd* (1958) 4 RRC 1 (use of building as loose boxes for stabling hunters held not an activity connected with agricultural operations); *Covell (Valuation Officer) v Streatfield Hood & Co Ltd* [1984] RA 193, [1985] JPL 123, Lands Tribunal (building used for cheese making); *Lowland Cereals Ltd v Lothian Assessor* [1980] RA 85 (use of silos as grain store prior to sale held more of a commercial nature and not part of agricultural operation); *Fletcher v Bartle (Valuation Officer)* [1988] RA 284, Lands Tribunal (shop selling produce of the agricultural land not exempt); *Cartwright (Valuation Officer) v Cherry Valley Farms Ltd* [2003] RA 21, Lands Tribunal (a feather plant that merely prepared duck feathers for marketing and transport was held to be exempt on the basis that its use was ancillary to or consequential on operations in the exempt duck-rearing buildings).

11 Local Government Finance Act 1988 Sch 5 para 3(b).

12 Ibid Sch 5 para 4(1).

13 Ibid Sch 5 para 4 does not apply unless the number of occupiers of the land concerned is less than 25: Sch 5 para 4(4).

14 Ibid Sch 5 para 4(2).

15 Ibid Sch 5 para 4(3).

16 Ibid Sch 5 para 4(3)(a).

17 As to buildings occupied by bodies corporate see para 47 post.

18 Local Government Finance Act 1988 Sch 5 para 4(3)(b).

19 Ie for the purposes of ibid Sch 5 paras 3–7 (Sch 5 paras 3, 7 as amended) (see also paras 46–48 post): see Sch 5 para 8(3).

20 Ibid Sch 5 para 8(3). The Court of Appeal has held that there is no room to import the *de minimis* concept in deciding whether a use is the sole use: *Hambleton District Council v Buxted Poultry Ltd* [1992] 2 All ER 70, [1991] RA 267, CA (affirmed on a different point sub nom *Farmer (Valuation Officer) and Hambleton District Council v Buxted Poultry Ltd* [1993] AC 369, [1993] RA 1, HL).

See also *Parry v Anglesey Assessment Committee* [1949] 1 KB 246, [1948] 2 All ER 1060, DC (shed housing farmer's car which was used for both farm and domestic purposes held not an agricultural building); *Winterton (Valuation Officer) v Friday Bridge Agricultural Camp Ltd* [1974] RA 309, Lands Tribunal (10% of labour staying in a camp worked in a canning factory; held not to be an agricultural

operation or ancillary operation); *Glasgow Assessor v Berridale Allotments and Gardens Association* [1973] RA 236 (use of hut for storing furniture occupied a substantial part of the year; building not exempt); *Home Grown Fruits Ltd v Paul (Valuation Officer)* [1974] RA 329, Lands Tribunal (offices of fruit growers' marketing organisation held not an agricultural building as they were used by other non-members and for imported fruit); *Corser (Valuation Officer) v Gloucester Marketing Society Ltd* [1981] RA 83, CA (auction hall of marketing society used a substantial part of the time by non-members held not exempt).

46. Livestock buildings. For the purposes of exempting agricultural buildings from local non-domestic rating[1], a building[2] is an agricultural building if: (1) it is used for the keeping or breeding of livestock[3]; (2) it is not a dwelling[4] and it is occupied together with one or more buildings falling within head (1) above and it is used in connection with the operations carried on in that building or those buildings[5].

However, head (1) above does not apply to a building unless either it is solely used as mentioned in head (1) above[6], or it is occupied together with agricultural land[7] and used also in connection with agricultural operations[8] on that land, and that other use together with the use mentioned in head (1) above is its sole use[9]. A building used as mentioned in head (2) above is not an agricultural building unless either it is solely used as mentioned in head (2) above[10], or it is occupied also together with agricultural land and used also in connection with agricultural operations on that land, and that other use together with the use mentioned in head (2) above is its sole use[11]. Nor is a building an agricultural building by virtue of these provisions unless it is surrounded by or contiguous to an area of agricultural land which amounts to not less than two hectares[12]; and in determining for this purpose[13] whether an area is agricultural land and what is its size, there must be disregarded[14]: (a) any road, watercourse or railway[15]; (b) any agricultural building other than the building in question[16]; and (c) any building occupied together with the building in question[17].

1 See para 43 ante.

2 As to the meaning of 'building' for these purposes see para 45 note 2 ante.

3 Local Government Finance Act 1988 s 51, Sch 5 para 5(1)(a). For these purposes, 'livestock' includes any mammal or bird kept for the production of food or wool or for the purpose of its use in the farming of land: Sch 5 para 8(5).

Pigs used in experiments, not kept for the production of food and so not livestock, are not within this meaning: *Meat and Livestock Commission v Stirlingshire Assessor* [1975] RA 234. Pig raising may, however, be an agricultural operation: see para 45 ante. Horses at a stud farm do not come within the definition: *Whitsbury Farm and Stud Ltd v Hemens (Valuation Officer)* [1988] AC 601, HL. See also, as to the meaning of livestock, *Cresswell (Valuation Officer) v British Oxygen Co Ltd* [1980] 3 All ER 443, [1980] 1 WLR 1556, CA (fish not livestock; but as to the exemption of fish farms see para 49 post); *Gunter (Valuation Officer) v Newton Oyster Fishery Co Ltd* (1977) 20 RRC 313, Lands Tribunal (oysters not livestock; but as to the exemption of fish farms see para 49 post); *Jones (Valuation Officer) v Davies* (1977) 21 RRC 40, Lands Tribunal (mink not livestock); *Cook (Valuation Officer) v Ross Poultry Ltd* [1982] RA 187, Lands Tribunal (pheasant and partridge not livestock).

Some of the cases cited in this paragraph were decided prior to the coming into force of the Local Government Finance Act 1988 and, therefore, must now be considered in relation to the non-domestic rating provisions in Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 47 et seq post). As to the historical development of rating law and the continuing relevance of the old case law to the current statutory regime see para 2 ante.

4 As to the meaning of 'dwelling' see the case cited in para 45 note 3 ante.

5 Local Government Finance Act 1988 Sch 5 para 5(1)(b). See also *Ayrshire Assessor v Macster Poultry Ltd* [1977] RA 189 (where an egg packing station used solely in connection with the activities of laying houses was held exempt); *Womersley (Valuation Officer) v Jisco Ltd* [1990] RA 211, Lands Tribunal (where an abattoir was held exempt).

6 Local Government Finance Act 1988 Sch 5 para 5(2)(a). As to sole use see para 45 ante.

7 For the meaning of 'agricultural land' for these purposes see para 44 ante.

8 As to the meaning of 'agricultural operations' for these purposes see the cases cited in para 45 note 10 ante.

9 Local Government Finance Act 1988 Sch 5 para 5(2)(b).

10 Ibid Sch 5 para 5(3)(a).

11 Ibid Sch 5 para 5(3)(b).

12 Ibid Sch 5 para 5(4). See eg *Lothian Regional Assessor v Hood* 1988 SLT 161, [1987] RVR 132, Lands Tribunal; *Sovereign Chicken Ltd v Stebbing (Valuation Officer)* [1988] RVR 223, Lands Tribunal. However, a building which is ancillary to a livestock building exempt under the Local Government Finance Act 1988 Sch 5 para 5(1)(a) may itself be exempt under Sch 5 para 7(2), (4), (8) without itself meeting the two hectare requirement: see para 47 post.
13 Ie for the purpose of ibid Sch 5 para 5(4) (see the text and note 12 supra): see Sch 5 para 5(5).
14 Ibid Sch 5 para 5(5).
15 Ibid Sch 5 para 5(5)(a). The reference in head (a) in the text to railway includes the former site of a railway from which railway lines have been removed: see Sch 5 para 5(5)(a).
16 Ibid Sch 5 para 5(5)(b).
17 Ibid Sch 5 para 5(5)(c).

47. Buildings occupied by bodies corporate. For the purposes of exempting agricultural buildings from local non-domestic rating[1], a building[2], is an agricultural building[3] if it is not a dwelling[4], and if: (1) it is used in connection with agricultural operations[5] carried on on agricultural land[6]; (2) it is occupied by a body corporate any of whose members are (or are together with the body) the occupiers of the land[7]; and (3) the members who are occupiers of the land together have control of the body[8].

A building is also an agricultural building for these purposes if it is not a dwelling[9], and: (a) it is used in connection with the operations carried on in a building which (or buildings each of which) is used for the keeping or breeding of livestock[10], and is[11] an agricultural building[12]; and (b) the building in question[13]: (i) is occupied by a body corporate any of whose members are (or are together with the body) the occupiers of the building or buildings mentioned in head (a) above[14], and the members who are occupiers of the land together have control of the body[15]; or (ii) is occupied by the same persons as the building or buildings mentioned in head (a) above[16]; or (iii) is occupied by individuals each of whom is appointed by the occupiers of the building or buildings mentioned in head (a) above to manage the use of the building in question[17], and each of whom is either an occupier of part of the building (or of part of one of the buildings) mentioned in head (a) above[18], or is a member of the board of directors or other governing body of a person who is both a body corporate and an occupier of the building or buildings mentioned in head (a) above[19].

A building does not qualify for either set of exemption conditions set out above[20] unless the use mentioned in either of those conditions (or that use together with the use mentioned in the other of those conditions) is its sole use[21].

1 See para 43 ante.
2 As to the meaning of 'building' for these purposes see para 45 note 2 ante.
3 Ie under the Local Government Finance Act 1988 s 51, Sch 5 para 7(1) (as amended): see eg *Courtman (Valuation Officer) v West Devon and North Cornwall Farmers Ltd* [1990] RA 17, Lands Tribunal.
4 As to the meaning of 'dwelling' see the case cited in para 45 note 3 ante.
5 As to the meaning of 'agricultural operations' see para 45 note 10 ante.
6 Local Government Finance Act 1988 Sch 5 para 7(1)(a). For the meaning of 'agricultural land' see para 44 ante.
7 Ibid Sch 5 para 7(1)(b) (amended by the Local Government and Housing Act 1989 s 139, Sch 5 paras 37(2), 79(3)). See *Re Pyrke (Valuation Officer)* [2003] RA 318, Lands Tribunal (warehouse was occupied by a body corporate but none of the member co-operatives of that body corporate occupied any of the agricultural land; it was the members of the co-operatives that did).
8 Local Government Finance Act 1988 Sch 5 para 7(1)(c) (added by the Local Government Act 2003 s 67(1), (3)). In the Local Government Finance Act 1988 Sch 5 para 7 (as amended), 'control' must be construed in accordance with the Income and Corporation Taxes Act 1988 s 416(2)–(6) (see income taxation): Local Government Finance Act 1988 Sch 5 para 7(9) (added by the Local Government Act 2003 s 67(1), (5)). The amendments made by the Local Government Act 2003 s 67 accommodate premises used for ancillary activities such as food processing and packaging and ensure that the exemption will only apply to such premises where the company is controlled by occupiers of related agricultural land. Previously, the exemption applied provided that the occupier of the premises was a company and any of the members of that company was an occupier of related agricultural land.
9 Local Government Finance Act 1988 Sch 5 para 7(2).

10 As to the meaning of 'livestock' see para 46 note 3 ante.
11 Ie by virtue of the Local Government Finance Act 1988 Sch 5 para 5 (see para 46 ante): Sch 5 para 7(2)(a).
12 Ibid Sch 5 para 7(2)(a).
13 Ibid Sch 5 para 7(2)(b).

As to the nature of occupancy arrangements in relation to such a building that qualified for the exemption as it was set out in predecessor legislation see *Prior (Valuation Officer) v Sovereign Chicken Ltd* [1984] 2 All ER 289, [1984] 1 WLR 921, CA; and *Farmer (Valuation Officer) v Hambleton District Council* [1999] RA 61, [1999] EGCS 5, CA (both cases considering the Rating Act 1971 s 4(2)(b)). These cases were decided prior to the coming into force of the Local Government Finance Act 1988 and, therefore, must now be considered in relation to the non-domestic rating provisions in Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 48 et seq post). As to the historical development of rating law and the continuing relevance of the old case law to the current statutory regime see para 2 ante.

14 Local Government Finance Act 1988 Sch 5 para 7(3)(a) (Sch 5 para 7(3) substituted by the Local Government Act 2003 s 67(1), (4)).
15 Local Government Finance Act 1988 Sch 5 para 7(3)(b) (as substituted: see note 14 supra).
16 Ibid Sch 5 para 7(4). Head (ii) in the text does not apply unless the number of occupiers of the building or buildings mentioned in Sch 5 para 7(2)(a) (see head (a) in the text) is less than 25: Sch 5 para 7(8).
17 Ibid Sch 5 para 7(5). Head (iii) in the text does not apply unless the number of occupiers of the building or buildings mentioned in Sch 5 para 7(2)(a) (see head (a) in the text) is less than 25: Sch 5 para 7(8).
18 Ibid Sch 5 para 7(5)(a). See note 17 supra.
19 Ibid Sch 5 para 7(5)(b). See note 17 supra.
20 Ie the qualification set out either in ibid Sch 5 para 7(1) (as amended) (see the text and notes 1–8 supra) or in Sch 5 para 7(2) (see the text and notes 9–19 supra): see Sch 5 para 7(6), (7).
21 Ibid Sch 5 para 7(6), (7). As to sole use see para 45 ante.

48. Buildings occupied in connection with bee-keeping. For the purposes of exempting agricultural buildings from local non-domestic rating[1], a building[2] is an agricultural building if it is not a dwelling[3], if it is occupied by person keeping bees, if it is used solely[4] in connection with the keeping of those bees[5], and if it is surrounded by or contiguous to an area of agricultural land[6] which amounts to not less than two hectares[7]. In deciding for these purposes[8] whether an area is agricultural land and what is its size, the following are to be disregarded[9], namely: (1) any road, watercourse or railway[10]; (2) any agricultural building other than the building in question[11]; (3) any building occupied together with the building in question[12].

1 See para 43 ante.
2 As to the meaning of 'building' for these purposes see para 45 note 2 ante.
3 As to the meaning of 'dwelling' see the case cited in para 45 note 3 ante.
4 As to sole use see para 45 ante.
5 Local Government Finance Act 1988 s 51, Sch 5 para 6(1).
6 For the meaning of 'agricultural land' see para 44 ante.
7 Ibid Sch 5 para 5(4), applied by Sch 5 para 6(2).
8 Ie for the purpose of ibid Sch 5 para 5(4), applied by Sch 5 para 6(2) (see the text and notes 6–7 supra): see Sch 5 para 5(5), applied by Sch 5 para 6(2).
9 Ibid Sch 5 para 5(5), applied by Sch 5 para 6(2).
10 Ibid Sch 5 para 5(5)(a), applied by Sch 5 para 6(2). The reference in head (1) in the text to railway includes the former site of a railway from which railway lines have been removed: see Sch 5 para 5(5)(a), applied by Sch 5 para 6(2).
11 Ibid Sch 5 para 5(5)(b), applied by Sch 5 para 6(2).
12 Ibid Sch 5 para 5(5)(c), applied by Sch 5 para 6(2).

49. Fish farms. A hereditament[1] is exempt from local non-domestic rating[2] to the extent that it consists of land or buildings[3] (other than dwellings[4]) used solely[5] for or in connection with fish farming[6].

In determining whether land or a building used for or in connection with fish farming is solely so used, no account is to be taken of any time during which it is used in any other way, if that time does not amount to a substantial part of the time during which the land or building is used[7].

1 For the meaning of 'hereditament' see para 33 et seq ante.
2 For the meaning of 'exempt' for these purposes see the Local Government Finance Act 1988 s 51, Sch 5 para 21(1), (2); and see para 37 note 21 ante. As to the non-domestic rating provisions see paras 7 et seq ante, 50 et seq post. A hereditament that is completely exempt under Sch 5 para 9 (as amended) is not to be entered into a rating list: see s 42(1); and para 123 post.
3 For these purposes, 'building' includes a separate part of a building: ibid Sch 5 para 9(3).
4 As to the meaning of 'dwelling' see the case cited in para 45 note 3 ante.
5 As to sole use see para 45 ante; and see note 7 infra.
6 Local Government Finance Act 1988 Sch 5 para 9(1). 'Fish farming' means the breeding or rearing of fish or the cultivation of shellfish (including crustaceans and molluscs of any description) for the purpose of (or for purposes which include) transferring them to other waters or producing food for human consumption: Sch 5 para 9(4), (5). However, an activity does not constitute fish farming if the fish or shellfish are or include fish or shellfish which are purely ornamental, or which are bred, reared or cultivated for exhibition: Sch 5 para 9(4A) (added by the Local Government and Housing Act 1989 s 139, Sch 5 paras 37(3), 79(3)).
7 Local Government Finance Act 1988 Sch 5 para 9(2). See, however, the decisions cited in para 45 note 20 ante, as to whether buildings are used solely for agricultural operations.

(v) Sewers and Watercourses

50. Sewers. A hereditament[1] is exempt from local non-domestic rating[2] to the extent that it consists of a sewer[3] or an accessory[4] belonging to a sewer[5].

Sewage disposal works are, however, rateable[6].

1 For the meaning of 'hereditament' see para 33 et seq ante.
2 For the meaning of 'exempt' for these purposes see the Local Government Finance Act 1988 s 51, Sch 5 para 21(1), (2); and see para 37 note 21 ante. As to the non-domestic rating provisions see paras 7 et seq ante, 51 et seq post. A hereditament that is completely exempt under Sch 5 para 13 is not to be entered into a rating list: see s 42(1); and para 123 post.
3 Ie a sewer within the meaning of the Public Health Act 1936 s 343 (as amended) (see PROTECTION OF ENVIRONMENT AND PUBLIC HEALTH vol 38 (2006 Reissue) para 613): Local Government Finance Act 1988 Sch 5 para 13(2).
4 For these purposes, 'accessory' means a manhole, ventilating shaft, pumping station, pump or other accessory: ibid Sch 5 para 13(3). It has been held that 'accessory' should be given its ordinary meaning and not one *eiusdem generis* with the preceding words: *Jones (Valuation Officer) v Eastern Valleys (Monmouthshire) Joint Sewerage Board (No 2)* (1960) 6 RRC 387, Lands Tribunal (storm water tanks for sewer exempt); *Gudgion (Valuation Officer) v Erith Borough Council and LCC* (1961) 8 RRC 324, [1961] RVR 492, CA (screen and pumps to assist flow through sewer exempt); cf *Hoggett (Valuation Officer) v Cheltenham Corpn* [1964] RA 1, Lands Tribunal (screens, a detritor and storm water tanks held to be preparatory to sewage treatment and not accessories). See also *Northumberland Water Authority v Little (Valuation Officer)* [1986] RA 61, [1986] JPL 612, Lands Tribunal.

The cases cited in this paragraph were decided prior to the coming into force of the Local Government Finance Act 1988 and, therefore, must now be considered in relation to the non-domestic rating provisions in Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 51 et seq post). As to the historical development of rating law and the continuing relevance of the old case law to the current statutory regime see para 2 ante.
5 Ibid Sch 5 para 13(1). It is expressly provided that the Secretary of State (or the Welsh Ministers, as the case may be) may by order repeal Sch 5 para 13(1)–(3): see Sch 5 para 13(4). At the date at which this volume states the law no such order had been made. As to the Secretary of State and the Welsh Ministers see para 3 ante.
6 See para 116 post.

A sewer, on the other hand, may continue to be exempt even within the curtilage of a sewage disposal works: *Gudgion (Valuation Officer) v Erith Borough Council and LCC* (1961) 8 RRC 324, [1961] RVR 492, CA. Cf *Leicester Corpn v Churchwardens of Beaumont Leys and Barrow-on-Soar Union Assessment Committee* (1894) 63 LJMC 176; *Hoggett (Valuation Officer) v Cheltenham Corpn* [1964] RA 1, Lands Tribunal.

As to the plant and machinery rateable at a sewage disposal works see *Jones (Valuation Officer) v Eastern Valleys (Monmouthshire) Joint Sewerage Board* (1960) 6 RRC 379, Lands Tribunal (cited in para 103 note 23 post).

51. Property of drainage authorities. A hereditament[1] is exempt from local non-domestic rating[2] to the extent that it consists of any of the following, namely: (1)

land which is occupied by a drainage authority[3] and forms part of a main river[4] or of a watercourse[5] maintained[6] by the authority[7]; (2) a structure[8] maintained by a drainage authority, for the purpose of controlling or regulating the flow of water in, into or out of a watercourse which forms part of a main river or is maintained by the authority[9]; (3) an appliance so maintained for the purpose mentioned in head (2) above[10].

1 For the meaning of 'hereditament' see para 33 et seq ante.
2 For the meaning of 'exempt' for these purposes see the Local Government Finance Act 1988 s 51, Sch 5 para 21(1), (2); and see para 37 note 21 ante. As to the non-domestic rating provisions see paras 7 et seq ante, 52 et seq post. A hereditament that is completely exempt under Sch 5 para 14 (as amended) is not to be entered into a rating list: see s 42(1); and para 123 post.
3 'Drainage authority' means the Environment Agency or any internal drainage board: ibid Sch 5 para 14(2) (substituted by the Water Consolidation (Consequential Provisions) Act 1991 s 2, Sch 1 para 49(b); definition of 'drainage authority' amended by virtue of the Environment Act 1995 (Consequential Amendments) Regulations 1996, SI 1996/593, reg 2, Sch 1). As to the Environment Agency see PROTECTION OF ENVIRONMENT AND PUBLIC HEALTH vol 38 (2006 Reissue) para 52 et seq; and WATER vol 49(2) (2004 Reissue) para 8 et seq. As to internal drainage boards see WATER vol 49(2) (2004 Reissue) para 161 et seq.
4 'Main river' has the same meaning as in the Water Resources Act 1991 (see WATER vol 49(2) (2004 Reissue) para 166): Local Government Finance Act 1988 Sch 5 para 14(2) (as substituted: see note 3 supra).
5 'Watercourse' has the same meaning as in the Land Drainage Act 1991 (see WATER vol 49(2) (2004 Reissue) para 355): Local Government Finance Act 1988 Sch 5 para 14(2) (as substituted: see note 3 supra).
6 As to powers of maintenance of watercourses see WATER vol 49(2) (2004 Reissue) para 165.
7 Local Government Finance Act 1988 Sch 5 para 14(1)(a).
8 The meaning of 'structure' was considered in *Jewish Blind Society Trustees v Henning (Valuation Officer)* [1961] 1 All ER 47, [1961] 1 WLR 24, CA. See also *Hobday v Nicol* [1944] 1 All ER 302, DC; *Mills and Rockleys Ltd v Leicester Corpn* [1946] KB 315 at 319, [1946] 1 All ER 424 at 427, DC, per Lord Goddard LCJ; and *Cardiff Rating Authority and Cardiff Assessment Committee v Guest Keen Baldwin's Iron and Steel Co Ltd* [1949] 1 KB 385 at 396, [1949] 1 All ER 27 at 31, CA, per Denning LJ.

The cases cited in this paragraph were decided prior to the coming into force of the Local Government Finance Act 1988 and, therefore, must now be considered in relation to the non-domestic rating provisions in Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 52 et seq post). As to the historical development of rating law and the continuing relevance of the old case law to the current statutory regime see para 2 ante.
9 Ibid Sch 5 para 14(1)(b).
10 Ibid Sch 5 para 14(1)(c).

(vi) Miscellaneous Exemptions

52. Property used for the disabled. A hereditament[1] is exempt from local non-domestic rating[2] to the extent that it consists of property used wholly for any of the following purposes[3]:

(1) the provision of facilities for training, or keeping suitably occupied[4], persons who are disabled[5] or who are or have been suffering from illness[6];
(2) the provision of welfare services for disabled persons[7];
(3) the provision of certain facilities for disabled persons[8];
(4) the provision of a workshop or of certain other facilities[9].

1 For the meaning of 'hereditament' see para 33 et seq ante.
2 For the meaning of 'exempt' for these purposes see the Local Government Finance Act 1988 s 51, Sch 5 para 21(1), (2); and see para 37 note 21 ante. As to the non-domestic rating provisions see paras 7 et seq ante, 53 et seq post. A hereditament that is completely exempt under Sch 5 para 16 (as amended) is not to be entered into a rating list: see s 42(1); and para 123 post.
3 Ibid Sch 5 para 16(1).
4 The Lands Tribunal has expressed the view that the phrase 'suitably occupied' is to be understood from the context of its juxtaposition to 'training': *Chilcott (Valuation Officer) v Day* [1995] RA 285, Lands Tribunal; *O'Kelly v Davey (Valuation Officer)* [1996] RA 238, Lands Tribunal. See also *Halliday (Valuation Officer) v Priory Hospital Group of the Nottingham Clinic* [2001] RA 355, Lands Tribunal ('training' refers to

the instruction of a person for some particular occupation or practice that is suitable to his condition and does not extend to group therapy, counselling and other procedures that are aimed at helping that person to address and cope with his illness). The Lands Tribunal has also concluded that occupation, however suitable, which is for the purpose of reward is not contemplated by the Local Government Finance Act 1988 Sch 5 para 16 (as amended): see *O'Kelly v Davey (Valuation Officer)* supra. See also *Evans (Valuation Officer) v Suffolk County Council* [1997] RA 120, Lands Tribunal.

5 A person is disabled if he is blind, deaf or dumb or suffers from mental disorder of any description or is substantially and permanently handicapped by illness, injury, congenital deformity or any other disability for the time being prescribed for the purposes of the National Assistance Act 1948 s 29(1) (as amended) (see SOCIAL SERVICES AND COMMUNITY CARE vol 44(2) (Reissue) para 1020): Local Government Finance Act 1988 Sch 5 para 16(2). 'Illness' has the meaning given by the National Health Service Act 2006 s 275 (see NATIONAL HEALTH SERVICE): Local Government Finance Act 1988 Sch 5 para 16(3) (amended by the National Health Service (Consequential Provisions) Act 2006 s 2, Sch 1 paras 109, 110).

6 Local Government Finance Act 1988 Sch 5 para 16(1)(a).

7 Ibid Sch 5 para 16(1)(b). 'Welfare services for disabled persons' means services or facilities (by whomsoever provided) of a kind which a local authority has power to provide under the National Assistance Act 1948 s 29 (as amended) (see SOCIAL SERVICES AND COMMUNITY CARE vol 44(2) (Reissue) para 1020): Local Government Finance Act 1988 Sch 5 para 16(4). The National Assistance Act 1948 s 29 (as amended) does not empower authorities to provide residential accommodation: see *Jewish Blind Society Trustees v Henning (Valuation Officer)* [1961] 1 All ER 47, [1961] 1 WLR 24, CA; and *Vandyk v Oliver (Valuation Officer)* [1976] AC 659, [1976] 1 All ER 466, HL. See also *Evans (Valuation Officer) v Suffolk County Council* [1997] RA 120, Lands Tribunal. The Lands Tribunal has held that part of a hereditament used by a community drugs advisory service and run by the health care trust was not exempt under head (2) in the text on grounds that the assessment process (because it was a form of diagnosis) and the counselling programme (because it constituted treatment of illness) went beyond the welfare services that were envisaged by the relevant statutory definition used for these purposes: see *Reid (Valuation Officer) v Barking, Havering and Brentwood Community Health Care Trust* [1997] RA 385, Lands Tribunal.

8 Local Government Finance Act 1988 Sch 5 para 16(1)(c). The facilities referred to in the text are those provided under the Disabled Persons (Employment) Act 1944 s 15 (as amended) (see EMPLOYMENT vol 16(1A) (Reissue) para 535): see the Local Government Finance Act 1988 Sch 5 para 16(1)(c). Facilities for disabled persons provided under any other enactment are without the exemption stated in head (3) in the text: see *Davey (Valuation Officer) v O'Kelly* [1999] RA 245, Lands Tribunal. Where a hereditament is adapted for wheelchair use so that the hereditament can be used by a disabled person as his business workshop, it cannot be said that the hereditament is used wholly for the provision of that wheelchair: see *Davey (Valuation Officer) v O'Kelly* supra.

9 Local Government Finance Act 1988 Sch 5 para 16(1)(d). The facilities referred to in the text are those provided under the Disabled Persons (Employment) Act 1958 s 3(1) (as amended) (see EMPLOYMENT vol 16(1A) (Reissue) para 536): see the Local Government Finance Act 1988 Sch 5 para 16(1)(d).

53. Parks. A hereditament[1] is exempt from local non-domestic rating[2] to the extent that it consists of a park[3] which: (1) has been provided by, or is under the management of, a relevant authority[4] (or two or more relevant authorities in combination)[5]; and (2) is available for free and unrestricted use by members of the public[6].

1 For the meaning of 'hereditament' see para 33 et seq ante.

2 For the meaning of 'exempt' for these purposes see the Local Government Finance Act 1988 s 51, Sch 5 para 21(1), (2); and see para 37 note 21 ante. As to the non-domestic rating provisions see paras 7 et seq ante, 54 et seq post. A hereditament that is completely exempt under Sch 5 para 15 (as amended) is not to be entered into a rating list: see s 42(1); and para 123 post.

3 Reference to a park includes a reference to a recreation or pleasure ground, a public walk, an open space within the meaning of the Open Spaces Act 1906 (see OPEN SPACES AND ANCIENT MONUMENTS vol 34 (Reissue) para 285 et seq), and a playing field provided under the Physical Training and Recreation Act 1937 (see EDUCATION vol 15(1) (2006 Reissue) para 555): Local Government Finance Act 1988 Sch 5 para 15(2).

A swimming pool provided by a local authority has been held not to be a park: *Smith (Valuation Officer) v St Albans City and District Council* [1978] RA 147, 21 RRC 22. See also *Oxford City Council v Broadway (Valuation Officer)* [1999] RA 169, Lands Tribunal (open-air swimming pools within a park exempt from rating because they were used simply to enhance the park as a park and had not acquired a distinct and separate status). For examples of cases discussing whether land or buildings are part of a park

see *Lancashire County Council v Lord (Valuation Officer)* [1987] RA 153, Lands Tribunal (information centre and ranger's house serving country park 570 yards away); *Whitby (Valuation Officer) v Cole* [1987] RA 161, Lands Tribunal (miniature railway rateable).

Some of the cases cited in this paragraph were decided prior to the coming into force of the Local Government Finance Act 1988 and, therefore, must now be considered in relation to the non-domestic rating provisions in Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 54 et seq post). As to the historical development of rating law and the continuing relevance of the old case law to the current statutory regime see para 2 ante.

4 Each of the following is a relevant authority for these purposes:

(1) a Minister of the Crown or government department or any officer or body exercising functions on behalf of the Crown (ibid Sch 5 para 15(3)(aa) (added by the Local Government and Rating Act 1997 s 33(1), Sch 3 para 27));
(2) a county council (Local Government Finance Act 1988 Sch 5 para 15(3)(a));
(3) a county borough council (Sch 5 para 15(3)(aa) (added by the Local Government Reorganisation (Wales) (Consequential Amendments No 3) Order 1996, SI 1996/3071, art 2, Schedule para 2(2));
(4) a district council (Local Government Finance Act 1988 Sch 5 para 15(3)(b));
(5) a London borough council (Sch 5 para 15(3)(c));
(6) the Common Council of the City of London (Sch 5 para 15(3)(d));
(7) the Council of the Isles of Scilly (Sch 5 para 15(3)(e));
(8) a parish or community council (Sch 5 para 15(3)(f)); and
(9) the chairman of a parish meeting (Sch 5 para 15(3)(g)).

As to local government areas and authorities in England and their councils generally see LOCAL GOVERNMENT vol 29(1) (Reissue) para 25 et seq; and as to local government areas and authorities in Wales and their councils generally see LOCAL GOVERNMENT vol 29(1) (Reissue) para 41 et seq. As to London boroughs and their councils see LOCAL GOVERNMENT vol 29(1) (Reissue) para 24 et seq; and LONDON GOVERNMENT vol 29(2) (Reissue) para 30 et seq. As to the Common Council of the City of London see LONDON GOVERNMENT vol 29(2) (Reissue) para 51 et seq.

5 Ibid Sch 5 para 15(1)(a).

6 Ibid Sch 5 para 15(1)(b). For the purposes of construing head (2) in the text, temporary closure (at night or otherwise) is to be ignored: Sch 5 para 15(4).

As to the tests to be applied for the purposes of head (2) in the text see *Manchester City Council v Fogg (Valuation Officer)* [1990] RA 181 at 191, [1991] 2 EGLR 221 at 224, Lands Tribunal; and *Galgate Cricket Club v Doyle (Valuation Officer)* [2001] RA 21, Lands Tribunal (cricket clubhouse situated on recreation ground not exempt). See also *North Riding of Yorkshire County Valuation Committee v Redcar Corpn* [1943] 1 KB 114, [1942] 2 All ER 589, DC; *Sheffield Corpn v Tranter (Valuation Officer)* [1957] 2 All ER 583; *Burnell v Downham Market UDC* [1952] 2 QB 55, [1952] 1 All ER 601, CA (clubs paying to use field for organised matches and to charge admission for about 40 hours a year not an infringement of free and unrestricted use by the public); *Hampshire County Council v Broadway (Valuation Officer)* [1982] RA 309, [1983] JPL 122 (charges for car park did not restrict free use of a country park); *South Yorkshire County Council v Jones (Valuation Officer)* [1984] RA 204, [1985] JPL 124, Lands Tribunal; *Max Pullan Management Committee v Simpson (Valuation Officer)* [1989] RVR 128, Lands Tribunal.

54. Air-raid protection works. A hereditament[1] is exempt from local non-domestic rating[2] to the extent that it consists of property which: (1) is intended to be occupied or used solely for the purpose of affording protection in the event of hostile attack from the air[3]; and (2) is not occupied or used for any other purpose[4].

1 For the meaning of 'hereditament' see para 33 et seq ante.

2 For the meaning of 'exempt' for these purposes see the Local Government Finance Act 1988 s 51, Sch 5 para 21(1), (2); and see para 37 note 21 ante. As to the non-domestic rating provisions see paras 7 et seq ante, 55 et seq post. A hereditament that is completely exempt under Sch 5 para 17 is not to be entered into a rating list: see s 42(1); and para 123 post.

3 Ibid Sch 5 para 17(a).

4 Ibid Sch 5 para 17(b).

55. Certain property of the Trinity House. A hereditament[1] is exempt from local non-domestic rating[2] to the extent that it belongs to or is occupied by the Trinity House[3] and consists of any of the following[4], namely: (1) a lighthouse[5]; (2) a buoy[6]; (3) a beacon[7]; (4) a property within the same curtilage as, and occupied for the purposes of,

a lighthouse[8]. No other hereditament (or part of a hereditament) belonging to or occupied by the Trinity House is exempt, notwithstanding any exemptions provided for under the Merchant Shipping Act 1995[9].

1 For the meaning of 'hereditament' see para 33 et seq ante.
2 For the meaning of 'exempt' for these purposes see the Local Government Finance Act 1988 s 51, Sch 5 para 21(1), (2); and see para 37 note 21 ante. As to the non-domestic rating provisions see paras 7 et seq ante, 56 et seq post. A hereditament that is completely exempt under Sch 5 para 12 (as amended) is not to be entered into a rating list: see s 42(1); and para 123 post.
3 As to the Corporation of Trinity House of Deptford Strond see SHIPPING AND NAVIGATION vol 43(1) (Reissue) para 46; SHIPPING AND NAVIGATION vol 43(2) (Reissue) para 1102.
4 Local Government Finance Act 1988 Sch 5 para 12(1).
5 Ibid Sch 5 para 12(1)(a). See also para 29 ante, where lighthouse tolls are discussed, although their relevance is now largely historical.
6 Ibid Sch 5 para 12(1)(b).
7 Ibid Sch 5 para 12(1)(c).
8 Ibid Sch 5 para 12(1)(d).
9 Ibid Sch 5 para 12(2) (amended by the Merchant Shipping Act 1995 s 314(2), Sch 13 para 83). The prohibition set out in the text is so notwithstanding anything in the Merchant Shipping Act 1995 s 221(1) (exemption from public or local taxes, duties or rates) (see SHIPPING AND NAVIGATION vol 43(2) (Reissue) para 1132): see the Local Government Finance Act 1988 Sch 5 para 12(2) (as so amended).

56. Swinging moorings. A hereditament[1] is exempt from local non-domestic rating[2] to the extent that it consists of a mooring which is used or intended to be used by a boat or ship and which is equipped only with a buoy attached to an anchor, weight or other device[3], which (1) rests on the bed of the sea or any river or other waters when in use[4]; and (2) is designed to be raised from that bed from time to time[5].

1 For the meaning of 'hereditament' see para 33 et seq ante.
2 For the meaning of 'exempt' for these purposes see the Local Government Finance Act 1988 s 51, Sch 5 para 21(1), (2); and see para 37 note 21 ante. As to the non-domestic rating provisions see paras 7 et seq ante, 57 et seq post. A hereditament that is completely exempt under Sch 5 para 18 is not to be entered into a rating list: see s 42(1); and para 123 post. As to the rateability of moorings and of floating vessels secured to moorings see also para 28 ante.
3 Ibid Sch 5 para 18.
4 Ibid Sch 5 para 18(a).
5 Ibid Sch 5 para 18(b).

57. Roads crossing watercourses. A hereditament[1] which is occupied[2] is exempt from local non-domestic rating[3] to the extent that it consists of (or any of the appurtenances[4] of) a fixed road crossing over an estuary, river or other watercourse[5]. For these purposes, a fixed road crossing means a bridge[6], viaduct, tunnel or other construction providing a means for road vehicles or pedestrians or both to cross the estuary, river or other watercourse concerned[7]; and the reference to the appurtenances of a fixed road crossing is a reference to: (1) the carriageway and any footway of a fixed road crossing[8]; (2) any building, other than office buildings, used in connection with the crossing[9]; and (3) any machinery, apparatus or works used in connection with the crossing or with any of the items mentioned in heads (1) and (2) above[10].

1 For the meaning of 'hereditament' see para 33 et seq ante.
2 Ie as mentioned in the Local Government Finance Act 1988 s 65 (as amended) (see para 13 ante). As to occupation generally see para 12 et seq ante.
3 For the meaning of 'exempt' for these purposes see ibid s 51, Sch 5 para 21(1), (2); and see para 37 note 21 ante. As to the non-domestic rating provisions see paras 7 et seq ante, 58 et seq post. A hereditament that is completely exempt under Sch 5 para 18A (as added) is not to be entered into a rating list: see s 42(1); and para 123 post.
4 As to the appurtenances referred to for this purpose see the text and notes 8–10 infra.

5 Local Government Finance Act 1988 Sch 5 para 18A(1) (s 18A added by the Local Government and Housing Act 1989 s 139, Sch 5 paras 37(4), 79(3)).
6 For these purposes, a bridge may be a fixed road crossing notwithstanding that it is designed so that part of it can be swung, raised or otherwise moved in order to facilitate passage across, above or below it: Local Government Finance Act 1988 Sch 5 para 18A(3)(a) (as added: see note 5 supra). However, the expression 'bridge' does not include a floating bridge, i e a ferry operating between fixed chains: Sch 5 para 18A(3)(b) (as so added).
7 Ibid Sch 5 para 18A(2) (as added: see note 5 supra). An aerial ropeway has been held to qualify for this exemption: *Griffin v Sansom (Valuation Officer)* [1996] RA 454, Lands Tribunal.
8 Local Government Finance Act 1988 Sch 5 para 18A(4)(a) (as added: see note 5 supra).
9 Ibid Sch 5 para 18A(4)(b) (as added: see note 5 supra).
10 Ibid Sch 5 para 18A(4)(c) (as added: see note 5 supra).

58. Property used for road user charging schemes. A hereditament[1] which is occupied[2] is exempt from local non-domestic rating[3] to the extent that: (1) it consists of a road in respect of which charges are imposed by a charging scheme[4]; or (2) it is used solely for or in connection with the operation of such a scheme[5].

1 For the meaning of 'hereditament' see para 33 et seq ante.
2 Ie as mentioned in the Local Government Finance Act 1988 s 65 (as amended) (see para 13 ante). As to occupation generally see para 12 et seq ante.
3 For the meaning of 'exempt' for these purposes see ibid s 51, Sch 5 para 21(1), (2); and see para 37 note 21 ante. As to the non-domestic rating provisions see paras 7 et seq ante, 59 et seq post. A hereditament that is completely exempt under Sch 5 para 18B (as added) is not to be entered into a rating list: see s 42(1); and para 123 post.
4 Ibid Sch 5 para 18B(1)(a) (Sch 5 para 18B added by the Transport Act 2000 s 200). The text refers to a charging scheme under the Greater London Authority Act 1999 s 295(3), Sch 23 (Sch 23 as amended) (see LONDON GOVERNMENT vol 29(2) (Reissue) para 334 et seq) or under the Transport Act 2000 Pt III (ss 163–200) (see ROAD TRAFFIC vol 40(2) (2007 Reissue) para 901 et seq): see the Local Government Finance Act 1988 Sch 5 para 18B(1)(a) (as so added).
5 Ibid Sch 5 para 18B(1)(b) (as added: see note 4 supra). Office buildings are not exempt under head (2) in the text: Sch 5 para 18B(2) (as so added).

59. Property in enterprise zones. A hereditament[1] is exempt from local non-domestic rating[2] to the extent that it is situated in an enterprise zone[3].

1 For the meaning of 'hereditament' see para 33 et seq ante.
2 For the meaning of 'exempt' for these purposes see the Local Government Finance Act 1988 s 51, Sch 5 para 21(1), (2); and see para 37 note 21 ante. As to the non-domestic rating provisions see paras 7 et seq ante, 60 et seq post. A hereditament that is completely exempt under Sch 5 para 19 is not to be entered into a rating list: see s 42(1); and para 123 post.
3 Ibid Sch 5 para 19(1). For these purposes, an enterprise zone is an area for the time being designated as an enterprise zone under the Local Government, Planning and Land Act 1980 s 179, Sch 32 (as amended) (see TOWN AND COUNTRY PLANNING vol 46(3) (Reissue) para 1491 et seq): Local Government Finance Act 1988 Sch 5 para 19(2).

(5) CHARGEABLE AMOUNT

(i) Local Non-domestic Rating Lists

A. OCCUPIED HEREDITAMENTS

60. Calculating the amount payable for occupied hereditaments in the local rating list. The ratepayer[1] is subject to the non-domestic rate in respect of a chargeable financial year[2] if the following conditions are fulfilled in respect of any day in the year, namely if: (1) on that day he is in occupation[3] of all or part of the hereditament[4]; and (2) the hereditament is shown for that day in a local non-domestic rating list in force for the year[5].

The amount payable is calculated by: (a) finding the chargeable amount[6] for each chargeable day[7]; and (b) aggregating the amounts found under head (a) above[8]. For most cases, the chargeable amount for a chargeable day is calculated by multiplying the rateable value[9] by the non-domestic rating multiplier for the financial year[10], and using the number of days in the financial year[11] to divide the product[12]. However, where the relevant conditions are met, rate relief schemes may apply variations to this formula in cases where the hereditament relates to a small business[13], to a charity or registered club[14], to a qualifying general store, food store or post office on the rural settlement list[15] or to certain former agricultural land or buildings[16].

The amount the ratepayer is liable to pay in any case must be paid to the billing authority in whose local non-domestic rating list the hereditament is shown[17].

1 Ie a person who is subject to a non-domestic rate as regards a hereditament in a local rating list: see the Local Government Finance Act 1988 s 43(1). For the meaning of 'hereditament' see para 33 et seq ante. As to local non-domestic rating lists see para 121 et seq post.

2 For the purposes of the Local Government Finance Act 1988, chargeable financial years are financial years beginning in 1990 and subsequent years: s 145(1). For the meaning of 'financial year' for these purposes see para 1 note 1 ante.

3 As to what constitutes occupation see para 12 et seq ante; and as to deemed occupation in relation to multiple moorings for these purposes see para 34 ante.

4 Local Government Finance Act 1988 s 43(1)(a). The reference to a part of a hereditament in head (1) in the text ensures that an occupier who was in occupation (but not in occupation of the whole building) for a temporary period is liable for an apportioned rate in respect of that period, by virtue of the combined effect of s 43(1) and s 44A(1) (as added and amended) (see para 61 post): see *Croydon London Borough Council v Maxon Systems Inc (London) Ltd* [1999] RA 286, [1999] EGCS 68.

5 Local Government Finance Act 1988 s 43(1)(b).

6 As to the formulae according to which the chargeable amount for occupied property is calculated see the text and notes 9–16 infra.

7 Local Government Finance Act 1988 s 43(2)(a). For these purposes, a chargeable day is one which falls within the financial year and in respect of which the conditions in s 43(1) (see heads (1) and (2) in the text) are fulfilled: s 43(3).

8 Ibid s 43(2)(b).

9 Ie the rateable value shown for the day in the local non-domestic rating list under ibid s 42(4) (as amended) (see para 123 et seq post) as regards the hereditament: see s 44(1), (2) (s 44(2) amended by the Local Government and Housing Act 1989 s 194(4), Sch 5 paras 1, 21, 79(3), Sch 12 Pt II).

10 See the Local Government Finance Act 1988 s 44(1), (4). The non-domestic rating multiplier is a uniform amount applying to every billing authority area and is fixed annually by the Secretary of State (or the Welsh Ministers, as the case may be) using the method set out in s 56(2), Sch 7 (as amended): see para 86 note 6 post. As to the Secretary of State and the Welsh Ministers see para 3 ante; and as to billing authorities see para 5 ante.

Where the billing authority is a special authority, the figure used for the non-domestic rating multiplier is the authority's non-domestic rating multiplier for the financial year: see s 44(1), (5) (amended by the Local Government Finance Act 1992 s 117(1), Sch 13 para 61). A billing authority is a special authority if its population on 1 April 1986 was less than 10,000 and its gross rateable value on that date divided by its population on that date was more than £10,000: Local Government Finance Act 1988 s 144(6) (amended by the Local Government Finance Act 1992 Sch 13 para 81(2)). An authority's population on 1 April 1986 was the Registrar General's estimate of its population on that date as certified by him to the Secretary of State for the purposes of the enactments relating to rate support grant; and an authority's gross rateable value on that date was the aggregate of the rateable values on that date of the hereditaments in its area: Local Government Finance Act 1988 s 144(7).

11 See ibid s 44(1), (6).

12 See ibid s 43(4) (amended by the Local Government and Rating Act 1997 s 1, Sch 1 para 2(a); and the Local Government Act 2003 s 61(1), (2)). The calculation of the chargeable amount for a chargeable day using the formula set out in the Local Government Finance Act 1988 s 43(4) (as amended) is subject to s 43(4A) (as added) (see para 70 post), s 43(5) (see para 73 post) and s 43(6A) (as added and amended) (see para 76 et seq post): see s 43(4) (as so amended); and the text and notes 13–16 infra.

13 See ibid s 43(4A) (as added); and para 70 post.

14 See ibid s 43(5); and para 73 post.

15 See ibid s 43(6A) (as added and amended); and para 76 post.

16 See ibid s 43(6F)–(6L) (as added); and para 77 post.

17 Ibid s 43(7) (amended by the Local Government Finance Act 1992 Sch 13 para 60). The liability to pay any such amount is discharged by making a payment or payments in accordance with regulations made under the Local Government Finance Act 1988 s 62, Sch 9 (as amended) (see para 141 et seq post): s 43(8). As to the regulations so made see the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058 (amended by the Statute Law (Repeals) Act 1995; SI 1990/145; SI 1991/141; SI 1991/1127; SI 1992/474; SI 1992/1512; SI 1993/616; SI 1993/774; SI 1993/1493; SI 1996/675; SI 1996/1880; SI 1998/3089; SI 2005/617; and in relation to England only by SI 2000/2026; SI 2001/362; SI 2003/2210; SI 2003/2604; SI 2003/3052; SI 2006/237; SI 2006/3395; SI 2007/501; and in relation to Wales only by SI 2001/1076; SI 2003/1714; SI 2004/1013) (see paras 170, 175 et seq post). As to the making of regulations under the Local Government Finance Act 1988 generally see para 3 ante.

B. PARTLY OCCUPIED HEREDITAMENTS

61. Calculating the amount payable for partly occupied hereditaments in the local rating list. Where a hereditament[1] is shown in a billing authority's[2] local non-domestic rating list[3] and it appears to the authority that part of the hereditament is unoccupied but will remain so for a short time only, the authority may require the valuation officer[4] for the authority to apportion the rateable value of the hereditament[5] between the occupied and unoccupied parts of the hereditament and to certify the apportionment to the authority[6]. For these purposes, an apportionment is to be treated as applicable for any day which: (1) falls within the operative period[7] in relation to the apportionment[8]; and (2) is a day for which the rateable value shown[9] as regards the hereditament to which the apportionment relates is the same as that so shown for the day on which the authority requires the apportionment[10].

In circumstances where:

(a) a billing authority requires such an apportionment[11]; and

(b) the hereditament to which the apportionment relates either does not fall within a class prescribed by the Secretary of State (or the Welsh Ministers, as the case may be) by regulations[12] or would (if unoccupied) be zero-rated[13],

then, in relation to any day for which the apportionment is applicable, the provisions relating to the liability for occupied hereditaments[14] have effect with modifications as regards the hereditament[15]. Similarly, where:

(i) a billing authority requires such an apportionment[16];

(ii) the hereditament to which the apportionment relates both falls within a class prescribed by the Secretary of State (or the Welsh Ministers, as the case may be) by regulations[17] and would (if unoccupied) not be zero-rated[18]; and

(iii) an order[19] is in force and has effect in relation to the hereditament[20],

then, in relation to any day for which the apportionment is applicable, the provisions relating to the liability for occupied hereditaments[21] have effect with modifications as regards the hereditament[22]. However, in relation to any day where neither set of conditions applies to the hereditament[23], such an apportionment[24] does not have any effect in relation to the chargeable amount[25].

1 For the meaning of 'hereditament' see para 33 et seq ante. References in the Local Government Finance Act 1988 s 44A(1)–(5) (as added and amended) to the hereditament, in relation to a hereditament which is partly domestic property or partly exempt from local non-domestic rating, are to be construed, except where the reference is to the rateable value of the hereditament, as references to such part of the hereditament as is neither domestic property nor exempt from local non-domestic rating: s 44A(10) (s 44A added by the Local Government and Housing Act 1989 s 139, Sch 5 paras 22, 79(3)). For the meaning of 'domestic property' in relation to non-domestic rating see para 120 post. As to the exemptions from non-domestic rating see para 37 et seq ante.

2 As to billing authorities see para 5 ante.

3 As to local non-domestic rating lists see para 121 post.

4 As to valuation officers see para 6 ante.

5 This reference to the rateable value of the hereditament is a reference to the rateable value shown under the Local Government Finance Act 1988 s 42(4) (as amended) (see para 123 et seq post) as regards the hereditament for the day on which the authority makes its requirement: s 44A(2) (as added: see note 1 supra).

6 Ibid s 44A(1) (as added (see note 1 supra); and amended by the Local Government Finance Act 1992 s 117(1), Sch 13 para 62). See *Croydon London Borough Council v Maxon Systems Inc (London) Ltd* [1999] RA 286, [1999] EGCS 68; and para 60 ante. As to what constitutes occupation see para 12 et seq ante; and as to deemed occupation in relation to multiple moorings for these purposes see para 34 ante.

7 References to the operative period in relation to an apportionment are references to the period beginning:

(1) where requiring the apportionment does not have the effect of bringing to an end the operative period in relation to a previous apportionment under the Local Government Finance Act 1988 s 44A(1) (as added and amended) (see the text and notes 1–6 supra), with the day on which the hereditament to which the apportionment relates became partly unoccupied (s 44A(4)(a) (as added: see note 1 supra)); and

(2) where requiring the apportionment does have the effect of bringing to an end the operative period in relation to a previous apportionment under s 44A(1) (as added and amended), with the day immediately following the end of that period (s 44A(4)(b) (as so added)),

and ending with the first day on which one or more of the following events occurs (s 44A(4) (as so added)), namely:

(a) the occupation of any of the unoccupied part of the hereditament to which the apportionment relates (s 44A(5)(a) (as so added));

(b) the ending of the rate period in which the authority requires the apportionment (s 44A(5)(b) (as so added));

(c) the requiring of a further apportionment under s 44A(1) (as added and amended) in relation to the hereditament to which the apportionment relates (s 44A(5)(c) (as so added));

(d) the hereditament to which the apportionment relates becoming completely unoccupied (s 44A(5)(d) (as so added)).

8 Ibid s 44A(3)(a) (as added: see note 1 supra).

9 Ie under ibid s 42(4) (as amended) (see para 123 et seq post): see s 44A(3)(b) (as added: see note 1 supra).

10 Ibid s 44A(3)(b) (as added: see note 1 supra).

11 Ibid s 44A(6)(a) (as added (see note 1 supra); and amended by the Local Government Finance Act 1992 Sch 13 para 62). The text refers to an apportionment required under the Local Government Finance Act 1988 s 44A(1) (as added and amended) (see the text and notes 1–6 supra): see s 44A(6)(a) (as so added and amended).

12 Ie within a class prescribed under ibid s 45(1)(d) (as amended) (see paras 62–63 post): see s 44A(6)(b) (as added and substituted: see note 13 infra). 'Prescribed' in the context of regulations, means prescribed by the regulations: s 146(6). As to the Secretary of State and the Welsh Ministers and as to the making of regulations under the Local Government Finance Act 1988 see para 3 ante.

13 Ibid s 44A(6)(b) (s 44A as added (see note 1 supra); s 44A(6)(b) substituted by the Rating (Empty Properties) Act 2007 s 2(1), Sch 1 para 1(1), (2)). The text refers to zero-rating under the Local Government Finance Act 1988 s 45A (as added) (see para 78 post): see s 44A(6)(b) (s 44A as so added, s 44A(6)(b) as so substituted).

14 Ie ibid s 43 (as amended) (see paras 60 ante, 70 et seq post): see s 44A(7) (as added: see note 1 supra).

15 Ibid s 44A(7) (as added: see note 1 supra). The chargeable amount for a chargeable day is calculated by multiplying the rateable value by the non-domestic rating multiplier for the financial year, and dividing the product by the number of days in the financial year in the same way as for occupied hereditaments: see the Local Government Finance Act 1988 s 43 (as amended); and paras 60 ante, 70 et seq post. However, the rateable value in this case is only such part of the rateable value shown for the day as regards the hereditament as is assigned by the relevant apportionments to the occupied part of the hereditament: s 44(2) (substituted by s 44A(7) (as so added)). For these purposes, 'relevant apportionment' means the apportionment under s 44A(1) (as added and amended) (see the text and notes 1–6 supra) which relates to the hereditament and is treated for the purposes of s 44A (as added and amended) as applicable for the day: s 44(2A) (added by s 44A(7) (as so added)).

16 Ibid s 44A(8)(a) (as added (see note 1 supra); and amended by the Local Government Finance Act 1992 Sch 13 para 62). The text refers to an apportionment required under the Local Government Finance Act 1988 s 44A(1) (as added and amended) (see the text and notes 1–6 supra): see s 44A(8)(a) (as so added and amended).

17 Ie within a class prescribed under ibid s 45(1)(d) (as amended) (see paras 62–63 post): see s 44A(8)(b) (s 44A as added, s 44A(8)(b) as substituted: see note 18 infra).

18 Ibid s 44A(8)(b) (s 44A as added (see note 1 supra); s 44A(8)(b) substituted by the Rating (Empty Properties) Act 2007 Sch 1 para 1(1), (3)). The text refers to zero-rating under the Local Government Finance Act 1988 s 45A (as added) (see para 78 post): see s 44A(8)(b) (as so added and substituted).

19 Ie under ibid s 45(4A) (as added) (see para 79 post): see s 44A(8)(c) (as added: see note 20 infra).
20 Ibid s 44A(8)(c) (s 44A as added (see note 1 supra); s 44A(8)(c) added by the Rating (Empty Properties) Act 2007 Sch 1 para 1(1), (3)).
21 Ie the Local Government Finance Act 1988 s 43 (as amended) (see paras 60 ante, 70 et seq post): see s 44A(9) (as added and amended: see note 22 infra).
22 Ibid s 44A(9) (as added (see note 1 supra); and amended by the Rating (Empty Properties) Act 2007 Sch 1 para 1(1), (4)). The chargeable amount for a chargeable day is calculated by multiplying the rateable value by the non-domestic rating multiplier for the financial year, and dividing the product by the number of days in the financial year in the same way as for occupied hereditaments: see the Local Government Finance Act 1988 s 43 (as amended); and paras 60 ante, 70 et seq post. However, the rateable value in this case is the sum of: (1) such part of the rateable value shown for the day under s 42(4) (as amended) (see para 123 et seq post) as regards the hereditament as is assigned by the relevant apportionment to the occupied part of the hereditament (s 44(2)(a) (substituted by s 44A(9) (as so added and amended))); and (2) such part of that rateable value as is assigned by the relevant apportionment to the unoccupied part of the hereditament, divided by the number prescribed by the order under s 45(4A) (as added) (see para 79 post) as it has effect in relation to the hereditament (s 44(2)(b) (substituted by s 44A(9) (as so added and amended))). For these purposes, 'relevant apportionment' means the apportionment under s 44A(1) (as added and amended) (see the text and notes 1–6 supra) which relates to the hereditament and is treated for the purposes of s 44A (as added and amended) as applicable for the day: s 44(2A) (added by s 44A(9) (as so added and amended)).
23 Ie a day to which neither ibid s 44A(7) (as added and amended) (see the text and notes 14–15 supra) nor s 44A(9) (as added and amended) (see the text and notes 21–22 supra) applies: see s 44A(9A) (as added: see note 25 infra).
24 Ie under ibid s 44A(1) (as added and amended) (see the text and notes 1–6 supra): see s 44A(9A) (as added: see note 25 infra).
25 Ibid s 44A(9A) (added by the Rating (Empty Properties) Act 2007 Sch 1 para 1(1), (5)).

C. UNOCCUPIED HEREDITAMENTS

62. Liability for unoccupied hereditaments. The ratepayer[1] is subject to the non-domestic rate in respect of a chargeable financial year[2] if the following conditions are fulfilled in respect of any day in the year[3], namely if:

(1) on the day none of the hereditament is occupied[4];
(2) on the day the ratepayer is the owner[5] of the whole of the hereditament[6];
(3) the hereditament is shown for the day in a local non-domestic rating list in force for the year[7]; and
(4) on the day the hereditament falls within a class prescribed[8] by the Secretary of State (or the Welsh Ministers, as the case may be)[9] by regulations[10].

In such a case, the ratepayer is liable to pay an amount calculated by: (a) finding the chargeable amount[11] for each chargeable day[12]; and (b) aggregating the amounts found under head (a) above[13]. The chargeable amount for a chargeable day is calculated by multiplying the rateable value[14] by the non-domestic rating multiplier for the financial year[15], and using the number of days in the financial year[16] to divide the product[17]. However, liability for unoccupied properties may be reduced by order[18] and unoccupied hereditaments used by charities or by registered community amateur sports clubs may be zero-rated[19].

The amount the ratepayer is liable to pay must be paid to the billing authority in whose local non-domestic rating list the hereditament is shown[20].

1 Ie a person who is subject to a non-domestic rate as regards a hereditament in a local rating list: see the Local Government Finance Act 1988 s 45(1). For the meaning of 'hereditament' see para 33 et seq ante. As to local non-domestic rating lists see para 121 et seq post.
2 For the purposes of the Local Government Finance Act 1988, chargeable financial years are financial years beginning in 1990 and subsequent years: s 145(1). For the meaning of 'financial year' for these purposes see para 1 note 1 ante.
3 See ibid s 45(1).
4 Ibid s 45(1)(a). As to what constitutes occupation see para 12 et seq ante; and as to deemed occupation in relation to multiple moorings for these purposes see para 34 ante. The actions of a receiver and manager

in managing a company's business do not, without more, amount to rateable occupation of the company's premises by the receiver and manager: see *Ratford v Northavon District Council* [1987] QB 357, CA (for rating purposes, any occupation enjoyed by a receiver and manager in running the company's business as agents of the company was occupation by the company), applied in *Rees v Boston Borough Council* [2001] EWCA Civ 1934, [2002] 1 WLR 1304, [2002] RA 21. See also the cases cited in note 5 infra.

Where a day is determined under the Local Government Finance Act 1988 s 46A(1) (as added), Sch 4A (as added and amended) as the completion day in relation to a new building (see para 65 post), and the building is not occupied on that day, it is deemed for the purposes of s 45 (as amended) to become unoccupied on that day: s 46A(4) (s 46A added by the Local Government and Housing Act 1989 s 139, Sch 5 paras 25, 79(3)). Where a day is determined under the Local Government Finance Act 1988 Sch 4A (as added and amended) as the completion day in relation to a new building, and the building is one produced by the structural alteration of an existing building, the hereditament which comprised the existing building is deemed for the purposes of s 45 (as amended) to have ceased to exist (and to have been omitted from the list) on that day: s 46A(5) (as so added).

5 For the meaning of 'owner' see para 13 ante. A person is entitled to possession of a hereditament only if he is immediately entitled to possession of it, so a receiver under a debenture is not entitled to possession of a hereditament if he remains just the agent of the company: *Brown v City of London Corpn* [1996] 1 WLR 1070, sub nom *Re Sobam BV and Satelscoop BV* [1996] RA 93. However, he may become the owner if he has exercised a right to take possession: see *Banister v Islington London Borough Council* (1973) 17 RRC 191, DC. See also *Ratford v Northavon District Council* [1987] QB 357, [1986] 3 All ER 193, CA. As to the position on the forfeiture of a lease see *Kingston-upon-Thames London Borough Council v Marlow* [1996] RA 87, [1996] 1 EGLR 101. As to whether non-domestic rates are chargeable as an expense in an administration see *Exeter City Council v Bairstow* [2007] EWHC 400 (Ch), [2007] 4 All ER 437, [2007] RA 109 (non-domestic rates accrued on occupied business premises during a company's administration were payable as expenses of the administration); and COMPANY AND PARTNERSHIP INSOLVENCY vol 7(3) (2004 Reissue) para 379.

6 Local Government Finance Act 1988 s 45(1)(b).

7 Ibid s 45(1)(c).

8 As to the class prescribed see note 10 infra.

9 As to the Secretary of State and the Welsh Ministers see para 3 ante.

10 Local Government Finance Act 1988 s 45(1)(d) (amended by the Local Government and Housing Act 1989 Sch 5 paras 23(2), 79(3)). For the purposes of head (4) in the text, a class may be prescribed by reference to such factors as the Secretary of State (or the Welsh Ministers, as the case may be) sees fit: Local Government Finance Act 1988 s 45(9) (added by the Local Government and Housing Act 1989 Sch 5 paras 23(3), 79(3)). 'Prescribed' in the context of regulations, means prescribed by the regulations: Local Government Finance Act 1988 s 146(6). As to the making of regulations under the Local Government Finance Act 1988 generally see para 3 ante; and as to the classes prescribed see para 63 post.

11 Subject to certain exceptions, the chargeable amount for unoccupied property is calculated in accordance with the formula set out in ibid s 45(4) (as substituted) (see the text and notes 14–17 infra).

12 Ibid s 45(2)(a). A chargeable day is one which falls within the financial year and in respect of which the conditions mentioned in s 45(1) (as amended) (see heads (1)–(4) in the text) are fulfilled: s 45(3).

13 Ibid s 45(2)(b).

14 Ie the rateable value shown for the day in the local non-domestic rating list under ibid s 42(4) (as amended) (see para 123 et seq post) as regards the hereditament: see s 46(1), (2) (s 46(2) amended by the Local Government and Housing Act 1989 s 194(4), Sch 5 paras 1, 21, 79(3), Sch 12 Pt II).

15 See the Local Government Finance Act 1988 s 46(1), (3).

Where the billing authority is a special authority, the figure used for the non-domestic rating multiplier is the authority's non-domestic rating multiplier for the financial year: see s 46(1), (4) (amended by the Local Government Finance Act 1992 s 117(1), Sch 13 para 64). As to billing authorities see para 5 ante; and as to special authorities and the non-domestic rating multiplier see para 60 note 10 ante.

16 See the Local Government Finance Act 1988 s 46(1), (5).

17 See ibid s 45(4) (substituted by the Rating (Empty Properties) Act 2007 s 1(1)). The calculation of the chargeable amount for a chargeable day using the formula set out in the Local Government Finance Act 1988 s 45(4) (as substituted) is subject to s 45(4A) (as added) (see para 79 post), s 45A (as added) (see para 78 post): see s 45(4) (as so substituted); and the text and notes 18–19 infra.

18 See para 79 post.

19 See para 78 post.

20 Local Government Finance Act 1988 s 45(7) (amended by the Local Government Finance Act 1992 Sch 13 para 63). The liability to pay any such amount is discharged by making a payment or payments in accordance with regulations under the Local Government Finance Act 1988 s 62, Sch 9 (as amended) (see para 141 et seq post): s 45(8). As to the regulations so made see the Non-Domestic Rating

(Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058 (amended by the Statute Law (Repeals) Act 1995; SI 1990/145; SI 1991/141; SI 1991/1127; SI 1992/474; SI 1992/1512; SI 1993/616; SI 1993/774; SI 1993/1493; SI 1996/675; SI 1996/1880; SI 1998/3089; SI 2005/617; in relation to England only by SI 2000/2026; SI 2001/362; SI 2003/2210; SI 2003/2604; SI 2003/3052; SI 2006/237; SI 2006/3395; SI 2007/501; in relation to Wales only by SI 2001/1076; SI 2003/1714; SI 2004/1013) (see paras 170, 175 et seq post).

63. Prescribed class of unoccupied hereditament. A ratepayer may be liable as regards an unoccupied non-domestic hereditament[1] included in a class which may be prescribed[2] by reference to such factors as the Secretary of State (or the Welsh Ministers, as the case may be)[3] sees fit[4]; and in particular such a class may be prescribed by reference to one or more of the following factors[5]:

(1) the physical characteristics of the hereditaments[6];
(2) the fact that hereditaments have been unoccupied at any time preceding the day[7] in question[8];
(3) the fact that the owners of hereditaments fall within prescribed descriptions[9].

The class of non-domestic hereditaments prescribed for these purposes[10] consists of all relevant non-domestic hereditaments[11] to which none of the following conditions applies[12], namely that:

(a) the whole hereditament has been unoccupied for a continuous period[13] not exceeding three months[14];
(b) its owner[15] is prohibited by law from occupying the hereditament or allowing it to be occupied[16];
(c) it is kept vacant by reason of action taken by or on behalf of the Crown or any local or public authority with a view to prohibiting the occupation of the hereditament or to acquiring it[17];
(d) it is the subject of a building preservation notice[18] or is included in a list of buildings of special architectural or historic interest[19];
(e) it is included in the schedule of monuments compiled under the Ancient Monuments and Archaeological Areas Act 1979[20];
(f) it is a qualifying industrial hereditament[21];
(g) its rateable value is less than £2,200[22];
(h) the owner is entitled to possession of the hereditament only in his capacity as the personal representative of a deceased person[23];
(i) there subsists in respect of the owner's estate a bankruptcy order[24];
(j) the owner is entitled to possession of the hereditament in his capacity as trustee under a deed of arrangement to which the Deeds of Arrangement Act 1914 applies[25];
(k) the owner is a company which is subject to a winding up order made under the Insolvency Act 1986 or which is being wound up voluntarily under that Act[26];
(l) the owner is entitled to possession of the hereditament in his capacity as liquidator by virtue of an order made under the Insolvency Act 1986[27].

Accordingly, a relevant hereditament which falls within at least one of the exceptions mentioned in heads (a) to (l) above is not subject to unoccupied rates[28].

1 Ie for the purposes of the Local Government Finance Act 1988 s 45(1)(d) (as amended) (see para 62 ante): see s 45(9) (as added: see note 4 infra); and para 62 ante. For the meaning of 'hereditament' see para 33 et seq ante.
2 'Prescribed' in the context of an order or regulations, means prescribed by the order or regulations: ibid s 146(6). As to the regulations so prescribed see the text and notes 10–28 infra. As to the making of regulations under the Local Government Finance Act 1988 generally see para 3 ante.
3 As to the Secretary of State and the Welsh Ministers see para 3 ante.
4 See the Local Government Finance Act 1988 s 45(9) (s 45(9), (10) added by the Local Government and Housing Act 1989 s 139, Sch 5 paras 23(3), 79(3)).
5 See the Local Government Finance Act 1988 s 45(10) (as added: see note 4 supra).

6 Ibid s 45(10)(a) (as added: see note 4 supra).
7 Ie the day mentioned in ibid s 45(1) (as amended) (see para 62 ante): see s 45(10)(b) (as added: see note 4 supra).
8 Ibid s 45(10)(b) (as added: see note 4 supra).
9 Ibid s 45(10)(c) (as added: see note 4 supra).
10 Ie for the purposes of ibid s 45(1) (as amended) (see para 62 ante): see the Non-Domestic Rating (Unoccupied Property) Regulations 1989, SI 1989/2261, reg 2(1).
11 For these purposes, 'relevant non-domestic hereditament' means any non-domestic hereditament consisting of (or of part of) any building, together with any land ordinarily used or intended for use for the purposes of the building or part: ibid reg 2(5)(a). It is submitted that a hereditament consisting primarily of land as opposed to buildings would not qualify for these purposes.
12 Ibid reg 2(1).
13 However, where a hereditament which has been unoccupied becomes occupied on any day and becomes unoccupied again on the expiration of a period of less than six weeks beginning with that day, then for the purposes of ascertaining whether the hereditament has been continuously unoccupied for the period mentioned in head (a) in the text (and, in relation to Wales only, head (f) in the text) it is to be treated as having been unoccupied on that day and throughout the period: ibid reg 2(3) (amended in relation to Wales only by SI 2007/3354).
14 Non-Domestic Rating (Unoccupied Property) Regulations 1989, SI 1989/2261, reg 2(2)(a). For these purposes (and, in relation to Wales only, for the purposes of head (f) in the text also), a hereditament which has not previously been occupied is to be treated as becoming unoccupied (reg 2(4) (amended in relation to Wales only by SI 2007/3354)):
   (1) on the day determined under the General Rate Act 1967 Sch 1 para 8 (repealed) (Non-Domestic Rating (Unoccupied Property) Regulations 1989, SI 1989/2261, reg 2(4)(a)); or
   (2) on the day determined under the Local Government Finance Act 1988 s 46A(1) (as added), Sch 4A (as added and amended) (see para 65 et seq post) (Non-Domestic Rating (Unoccupied Property) Regulations 1989, SI 1989/2261, reg 2(4)(b)); or
   (3) where neither head (1) nor (2) supra applies, on the day for which the hereditament is first shown in a local rating list (reg 2(4)(c)),

   whichever day first occurs (reg 2(4)). As to local non-domestic rating lists see para 121 et seq post.
15 For the meaning of 'owner' see para 13 ante.
16 Non-Domestic Rating (Unoccupied Property) Regulations 1989, SI 1989/2261, reg 2(2)(b). The owner is not prohibited by law from occupying the hereditament if he is required to demolish it by a condition of a planning permission: *Henderson v Liverpool Metropolitan District Council* [1980] RA 238, DC. In *Hailbury Investments Ltd v Westminster City Council* [1986] 3 All ER 440, [1986] 1 WLR 1232, HL, the owner was not prohibited by law from occupying a hereditament described in the list as 'offices' but subject to a planning condition prohibiting office use. In *Regent Lion Properties Ltd v Westminster City Council* [1990] RA 121, CA, the owner was not prohibited by law from occupying a hereditament for which there was no permitted use for the purposes of the planning legislation; however in the same case the Court of Appeal held that, where a notice was served under the Health and Safety at Work etc Act 1974 prohibiting certain activities because of the presence of asbestos, the owner was prohibited from occupying the hereditament or allowing it to be occupied until the steps which the notice required to be taken were taken. In *Tower Hamlets London Borough Council v St Katharine-by-the-Tower Ltd* (1982) 80 LGR 843, [1982] RA 261, DC, the owner of a building which had inadequate means of escape in case of fire and no certificate as required by the London Building Acts (Amendment) Act 1939 s 34 (as amended) was prohibited from occupying the hereditament or allowing it to be occupied.

   Some of the cases cited in this paragraph were decided prior to the coming into force of the Local Government Finance Act 1988 and, therefore, must now be considered in relation to the non-domestic rating provisions in Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 64 et seq post). As to the historical development of rating law and the continuing relevance of the old case law to the current statutory regime see para 2 ante.
17 Non-Domestic Rating (Unoccupied Property) Regulations 1989, SI 1989/2261, reg 2(2)(c). See *Regent Lion Properties Ltd v Westminster City Council* [1990] RA 121, CA (reversing on this point [1989] RA 190).
18 Ie as defined by the Planning (Listed Buildings and Conservation Areas) Act 1990 s 3 (as amended) (see TOWN AND COUNTRY PLANNING vol 46(3) (Reissue) para 1098): see the Non-Domestic Rating (Unoccupied Property) Regulations 1989, SI 1989/2261, reg 2(2)(d).
19 See the Interpretation Act 1978 s 17(2); and Non-Domestic Rating (Unoccupied Property) Regulations 1989, SI 1989/2261, reg 2(2)(d). The list referred to is one made under the Planning (Listed Buildings and Conservation Areas) Act 1990 s 1 (see TOWN AND COUNTRY PLANNING vol 46(3) (Reissue) paras 1091–1092): see the Interpretation Act 1978 s 17(2); and Non-Domestic Rating (Unoccupied Property) Regulations 1989, SI 1989/2261, reg 2(2)(d). See also *Providence Properties Ltd v Liverpool City Council* [1980] RA 189; *Debenhams plc v Westminster City Council* [1987] AC 396, [1987] 1 All ER 51, HL. The Non-Domestic Rating (Unoccupied Property) Regulations 1989, SI 1989/2261,

reg 2(2)(d) has been construed so that where two hereditaments (one occupied, the other not) have been wholly included in a listed building, the two may not be treated for these purposes as separate units and, accordingly, exemption from paying rates has to follow for both: *Ge Bowra Group Ltd v Thanet District Council* [2007] EWHC 1077 (Admin), [2007] RVR 120, [2007] All ER (D) 184 (Apr).

20 Non-Domestic Rating (Unoccupied Property) Regulations 1989, SI 1989/2261, reg 2(2)(e). The text refers to the schedule of monuments compiled and maintained under the Ancient Monuments and Archaeological Areas Act 1979 s 1 (as amended) (see OPEN SPACES AND ANCIENT MONUMENTS vol 34 (Reissue) para 355): see the Non-Domestic Rating (Unoccupied Property) Regulations 1989, SI 1989/2261, reg 2(2)(e).

21 Ibid reg 2(2)(f). In relation to Wales only, the condition set out in head (f) in the text specifies not only a qualifying industrial hereditament but one where the whole hereditament has, subject to reg 2(3) (as amended in relation to Wales) (see note 13 supra), been unoccupied for a continuous period not exceeding six months: see reg 2(2)(f) (amended in relation to Wales only by SI 2007/3354). See also note 14 supra.

For these purposes, 'qualifying industrial hereditament' means any hereditament other than a retail hereditament in relation to which all buildings comprised in the hereditament are: (1) constructed or adapted for use in the course of a trade or business; and (2) constructed or adapted for use for one or more of the following purposes, or one or more such purposes and one or more purposes ancillary thereto: (a) the manufacture, repair or adaptation of goods or materials, or the subjection of goods or materials to any process; (b) storage (including the storage or handling of goods in the course of their distribution); (c) the working or processing of minerals; (d) the generation of electricity: Non-Domestic Rating (Unoccupied Property) Regulations 1989, SI 1989/2261, reg 2(5)(b). 'Retail hereditament' means any hereditament where any building or part of a building comprised in the hereditament is constructed or adapted for the purpose of the retail provision of goods or of services (other than storage for distribution services) on or from the hereditament: reg 2(5)(b).

'Goods' for these purposes provides for a broad ambit of operation: see *Southwark London Borough Council v Bellway Homes Ltd* [2000] RA 437, [2000] EGCS 90 (postal sorting office was a qualifying industrial hereditament because mail was considered to be 'goods' and the post office's activities at that sorting office in franking, sorting and packaging the mail for distribution, amounted to subjecting goods to a process and to handling them in the course of distribution). However, the exemption relates to tangible objects subject to a physical process, and computer data does not fall within the term 'goods or materials' for these purposes: *Leda Properties Ltd v Kennet District Council* [2002] EWHC 2040 (Admin), [2003] RA 69, [2002] All ER (D) 18 (Jul) (operation of computer programmes far removed from the type of industrial processes envisaged in the industrial exemption).

In *Barnet London Borough Council v London Transport Property* [1995] RA 235, [1995] EGCS 78, Harrison J held that 'storage' will cover a wide range of goods in this context and might conceivably apply to activities which would not normally be described in that way but that in the instant case 'storage' did not include the overnight parking of buses in a bus garage. For these purposes, it does not necessarily follow from the fact that something is stored at a location that the location is used for storage: *Leda Properties Ltd v Kennet District Council* supra (unoccupied accommodation providing storage and data handling services on computers housed within it could not act as a store for the data, which could only be stored on suitably programmed computers).

22 Non-Domestic Rating (Unoccupied Property) Regulations 1989, SI 1989/2261, reg 2(2)(g) (amended in relation to England only by SI 2004/3146; in relation to Wales only by SI 2007/3354). For the meanings of 'England' and 'Wales' see para 1 note 2 ante.

23 Non-Domestic Rating (Unoccupied Property) Regulations 1989, SI 1989/2261, reg 2(2)(h).

24 Ibid reg 2(2)(i). The bankruptcy order referred to is one within the meaning of the Insolvency Act 1986 Pts VIII–XI (ss 252–385) (as amended) (see BANKRUPTCY AND INDIVIDUAL INSOLVENCY vol 3(2) (2002 Reissue) para 195 et seq): see the Non-Domestic Rating (Unoccupied Property) Regulations 1989, SI 1989/2261, reg 2(2)(i).

25 Ibid reg 2(2)(j). As to deeds of arrangement see BANKRUPTCY AND INDIVIDUAL INSOLVENCY vol 3(2) (2002 Reissue) para 859 et seq.

26 Ibid reg 2(2)(k). As to winding-up orders see COMPANY AND PARTNERSHIP INSOLVENCY vol 7(3) (2004 Reissue) para 432 et seq.

27 Ibid reg 2(2)(l). The text refers to an order made under the Insolvency Act 1986 s 112 (see COMPANY AND PARTNERSHIP INSOLVENCY vol 7(4) (2004 Reissue) para 1012) or s 145 (see COMPANY AND PARTNERSHIP INSOLVENCY vol 7(3) (2004 Reissue) para 575): see the Non-Domestic Rating (Unoccupied Property) Regulations 1989, SI 1989/2261, reg 2(2)(l).

28 See reg 2(1).

64. Power to prevent changes in state of unoccupied hereditament affecting liability. Regulations[1] may provide that, for the purposes of the non-domestic rating provisions[2] as they apply in relation to an unoccupied hereditament[3], the state of any property comprising or included in the hereditament is deemed not to have changed[4] either since before any event of a prescribed description[5], or by reason of any act done by or on behalf of a prescribed person[6]. The regulations may make provision as to the circumstances in which, and period for which, that is deemed to be the case[7].

The regulations may: (1) provide for the making of such assumptions or apportionments as may be prescribed in determining whether, or to what extent, the state of any property has changed in comparison with an earlier point in time[8]; (2) provide that an act is to be treated as done on behalf of a prescribed person if it is done by any person connected with that person[9], and define in what circumstances persons are to be treated for that purpose as connected[10]; and (3) provide that they have effect (with any necessary adaptations) in relation to omissions as well as to acts[11].

1 Regulations under the Local Government Finance Act 1988 s 66A (as added) may be made, in relation to England, by the Secretary of State and, in relation to Wales, by the Welsh Ministers: s 66A(6) (s 66A added by the Rating (Empty Properties) Act 2007 s 2(1), Sch 1 para 4(1)). The power to make regulations under the Local Government Finance Act 1988 s 66A (as added) is exercisable by statutory instrument, but no such regulations are to be made unless, in the case of regulations relating to England, a draft of the regulations has been laid before and approved by resolution of each House of Parliament or, in the case of regulations relating to Wales, a draft of the regulations has been laid before and approved by resolution of the National Assembly for Wales: s 143(4ZA) (added by the Rating (Empty Properties) Act 2007 Sch 1 para 4(2)). If the power to make regulations by virtue of Sch 1 para 4 is exercised before 1 April 2008, it may be exercised so that the regulations apply to acts or omissions taking place at any time after the regulations come into force, and also have effect in relation to the year 2007–08: s 3(5). However, at the date at which this volume states the law, no such regulations had been made. For the meanings of 'England' and 'Wales' see para 1 note 2 ante. As to the Secretary of State and the Welsh Ministers and as to the making of regulations under the Local Government Finance Act 1988 generally see para 3 ante. As to the National Assembly for Wales see CONSTITUTIONAL LAW AND HUMAN RIGHTS.

2 Ie the Local Government Finance Act 1988 Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 65 et seq post): see s 66A(1) (as added: see note 1 supra).

3 For the meaning of 'hereditament' see para 33 et seq ante. As to what constitutes occupation see para 12 et seq ante; and as to liability for unoccupied hereditaments see para 62 ante.

4 Local Government Finance Act 1988 s 66A(1) (as added: see note 1 supra).

5 Ibid s 66A(1)(a) (as added: see note 1 supra). 'Prescribed' in the context of regulations, means prescribed by the regulations: s 146(6).

6 Ibid s 66A(1)(b) (as added: see note 1 supra).

7 Ibid s 66A(2) (as added: see note 1 supra).

8 Ibid s 66A(3) (as added: see note 1 supra).

9 Ibid s 66A(4)(a) (as added: see note 1 supra).

10 Ibid s 66A(4)(b) (as added: see note 1 supra).

11 Ibid s 66A(5) (as added: see note 1 supra).

65. New buildings; completion notices. Under the General Rate Act 1967 (now repealed)[1], an unoccupied new building could only be entered in the rating list if a completion notice had been served in respect of it[2]. The Local Government Finance Act 1988 also contains provision for completion notices but does not provide explicitly to prevent the valuation officer[3] entering a new hereditament[4] in the list in the absence of a completion notice[5].

Where a completion notice is served under the Local Government Finance Act 1988[6], and the building[7] to which the notice relates is not completed on or before the relevant day[8], then for certain purposes[9] the building is deemed to be completed on that day[10].

Special provision is made with respect to the determination of a day as the completion day in relation to a new building for these purposes[11]. Accordingly, if it comes to the notice of a billing authority[12] that the work remaining to be done on a

new building in its area is such that the building can reasonably be expected to be completed within three months, the authority must serve a completion notice[13] on the owner[14] of the building as soon as is reasonably practicable unless the valuation officer[15] otherwise directs in writing[16]. Similarly, if it comes to the notice of a billing authority that a new building in its area has been completed, the authority may serve a completion notice on the owner of the building unless the valuation officer otherwise directs in writing[17]. A billing authority may withdraw a completion notice by serving on the owner of the building to which the notice relates a subsequent notice[18].

A completion notice must specify the building to which it relates and state the day which the authority proposes as the completion day in relation to the building[19]. Where at the time a completion notice is served it appears to the authority that the building to which the notice relates is not completed; the authority must propose as the completion day such day, not later than three months from and including the day on which the notice is served, as the authority considers is a day by which the building can reasonably be expected to be completed[20]. Where at the time a completion notice is served it appears to the authority that the building to which the notice relates is completed, the authority must propose as the completion day the day on which the notice is served[21].

The billing authority must supply to the valuation officer a copy of any completion notice served by it[22], and if the billing authority withdraws a completion notice, it must inform the valuation officer of that fact[23].

1 As to the historical development of rating law see para 2 ante.
2 See *Watford Borough Council v Parcourt Investment Co Ltd* (1971) 17 RRC 19, [1971] RA 97. As to the continuing relevance of the old case law to the current statutory regime see para 2 ante.
3 As to valuation officers see para 6 ante; and see the text and note 15 infra.
4 For the meaning of 'hereditament' see para 33 et seq ante.
5 See the Local Government Finance Act 1988 s 46A(1) (as added), Sch 4A (as added and amended) (cited in the text and notes 12–23 infra; and para 66 et seq post). See also para 24 ante.
6 Ibid s 46A(2)(a) (s 46A added by the Local Government and Housing Act 1989 s 139, Sch 5 paras 25, 79(3)). The text refers to a completion notice served under the Local Government Finance Act 1988 Sch 4A (as added and amended) (cited in the text and notes 12–23 infra; and para 66 et seq post): see s 46A(2)(a) (as so added). As to the mode of service of completion notices see para 66 post.
7 For these purposes, 'building' includes part of a building: ibid s 46A(6)(a) (as added: see note 6 supra). References to a new building include references to a building produced by the structural alteration of an existing building where the existing building is comprised in a hereditament which, by virtue of the alteration, becomes, or becomes part of, a different hereditament or different hereditaments: s 46A(6)(b) (as so added).
8 Ibid s 46A(2)(b) (as added: see note 6 supra). For these purposes, the relevant day in relation to a completion notice is:
   (1) where an appeal against the notice is brought under Sch 4A para 4 (as added and amended) (see para 68 post), the day stated in the notice (s 46A(3)(a) (as so added)); and
   (2) where no appeal against the notice is brought under Sch 4A para 4 (as added and amended), the day determined under Sch 4A (as added and amended) as the completion day in relation to the building to which the notice relates (s 46A(3)(b) (as so added)).
9 Ie for the purposes of ibid s 42 (as amended) (see para 123 post) and s 56(1), Sch 6 (as amended) (see para 87 et seq post): see s 46A(2) (as added: see note 6 supra).
10 Ibid s 46A(2) (as added: see note 6 supra).
11 Ibid s 46A(1) (as added: see note 6 supra). The text refers to the provisions of Sch 4A (as added and amended) (cited in the text and notes 12–23 infra; and para 66 et seq post), which have effect: see s 46A(1) (as so added).
12 As to billing authorities see para 5 ante.
13 Ie a notice under the Local Government Finance Act 1988 Sch 4A para 1 (as added and amended): see Sch 4A paras 1(1), (6), 10(2) (Sch 4A added by the Local Government and Housing Act 1989 Sch 5 paras 36, 79(3)).
14 'Owner', in relation to a building, means the person entitled to possession of the building: Local Government Finance Act 1988 Sch 4A para 10(2) (as added: see note 13 supra).
15 References to the valuation officer, in relation to a billing authority, are references to the valuation officer for the authority: ibid Sch 4A para 10(2) (as added (see note 13 supra); Sch 4A paras 1(1)–(3), 7(1), (2), 10(2) amended by the Local Government Finance Act 1992 s 117(1), Sch 13 para 83).

16 Local Government Finance Act 1988 Sch 4A para 1(1) (as added and amended: see note 15 supra).
17 Ibid Sch 4A para 1(2) (as added and amended: see note 15 supra).
18 Ibid Sch 4A para 1(3) (as added and amended: see note 15 supra). The power so conferred to withdraw a completion notice ceases to be exercisable in relation to a completion notice once a day has been determined under Sch 4A (as added and amended) as the completion day in relation to the building to which the notice relates: Sch 4A para 1(5) (as added: see note 13 supra).
19 Ibid Sch 4A para 2(1) (as added: see note 13 supra). As to the interpretation of a completion notice, the test is whether it fairly conveys to the recipient what is the subject matter of the notice: *Henderson v Liverpool Metropolitan District Council* [1980] RA 238, DC. This case was decided prior to the coming into force of the Local Government Finance Act 1988 and, therefore, must now be considered in relation to the non-domestic rating provisions in Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 66 et seq post). See further notes 1–2 supra.
20 Ibid Sch 4A para 2(2) (as added: see note 13 supra).
21 Ibid Sch 4A para 2(3) (as added: see note 13 supra).
22 Ibid Sch 4A para 7(1) (as added and amended: see note 15 supra).
23 Ibid Sch 4A para 7(2) (as added and amended: see note 15 supra).

66. Mode of service of completion notices. Without prejudice to any other mode of service, a completion notice[1] may be served on a person:

(1) by sending it in a prepaid registered letter, or by the recorded delivery service, addressed to that person at his usual or last-known place of abode or, in a case where an address for service has been given by that person, at that address[2];
(2) in the case of an incorporated company or body, by delivering it to the secretary or clerk of the company or body at their registered or principal office or sending it in a prepaid registered letter or by the recorded delivery service addressed to the secretary or clerk of the company or body at that office[3]; or
(3) where the name or address of that person cannot be ascertained after reasonable inquiry, by addressing it to him by the description of 'owner'[4] of the building[5] (describing it) to which the notice relates and by affixing it to some conspicuous part of the building[6].

1 As to completion notices see para 65 ante.
2 Local Government Finance Act 1988 s 46A(1), Sch 4A para 8(a) (s 46A, Sch 4A both added by the Local Government and Housing Act 1989 s 139, Sch 5 paras 36, 79(3)).
3 Local Government Finance Act 1988 Sch 4A para 8(b) (as added: see note 2 supra). As to the registered office of a company see COMPANIES vol 7(1) (2004 Reissue) para 346.
4 For the meaning of 'owner' for these purposes see para 65 note 14 ante.
5 As to the meaning of 'building' for these purposes see para 65 note 7 ante; definition applied by the Local Government Finance Act 1988 Sch 4A para 10(1) (as added: see note 2 supra).
6 Ibid Sch 4A para 8(c) (as added: see note 2 supra).

67. Completion date of substantially completed building. In the case of a building[1] to which work remains to be done which is customarily done to a building of the type in question after the building has been substantially completed[2], it is to be assumed that the building has been or can reasonably be expected to be completed at the end of such period beginning with the date of its completion apart from the work as is reasonably required for carrying out the work[3].

1 As to the meaning of 'building' for these purposes see para 65 note 7 ante; definition applied by the Local Government Finance Act 1988 s 46A(1), Sch 4A para 10(1) (s 46A, Sch 4A both added by the Local Government and Housing Act 1989 s 139, Sch 5 paras 36, 79(3)).
2 Local Government Finance Act 1988 Sch 4A para 9(1) (as added: see note 1 supra). The test to be applied in determining whether a building is 'completed' has been held to be whether the building as a building is ready for occupation or capable of occupation for the purpose for which it was intended: *Ravenseft Properties Ltd v Newham London Borough Council* [1976] QB 464, [1976] 1 All ER 580, CA; *Post Office v Nottingham City Council* [1976] 2 All ER 831, [1976] 1 WLR 624, CA; and see *Spears Bros v Rushmoor Borough Council* [2006] RA 86, Lands Tribunal (a building without electric lighting is incapable of occupation as a workshop and the building in question could not be occupied without a fire alarm system in any case).

Some of the cases cited in this paragraph were decided prior to the coming into force of the Local Government Finance Act 1988 and, therefore, must now be considered in relation to the non-domestic rating provisions in Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 68 et seq post). As to the historical development of rating law and the continuing relevance of the old case law to the current statutory regime see para 2 ante.

3 Ibid Sch 4A para 9(2) (as added: see note 1 supra). The time runs from the date of substantial completion whenever that occurred: *Graylaw Investments Ltd v Ipswich Borough Council* [1979] RA 111, CA. In deciding the time, it is not correct to take into account the time necessary to find a tenant, even though the work cannot be carried out until he has specified his requirements (*JLG Investments Ltd v Sandwell District Council* [1977] RA 78, CA); nor can the time required for planning the work be taken into account (*London Merchant Securities plc and Trendworthy Two v Islington London Borough Council* [1988] AC 303, [1987] 2 All ER 961, HL). See also *Provident Mutual Life Assurance Association v Derby City Council* [1981] 1 WLR 173, HL.

68. Determination of completion day. If the person on whom a completion notice[1] is served agrees in writing with the billing authority[2] by whom the notice is served that a day specified by the agreement is to be the completion day in relation to the building[3], that day must be the completion day in relation to it[4]. Where such an agreement[5] is made, the completion notice relating to the building is deemed to have been withdrawn[6]. The billing authority must supply the valuation officer[7] with details of any agreement to which it is a party and by virtue of which a completion day is determined in relation to a building[8].

A person on whom a completion notice is served may appeal to a valuation tribunal against the notice on the ground that the building to which the notice relates has not been (or, as the case may be, cannot reasonably be expected to be) completed by the day stated in the notice[9]. An appeal against a completion notice[10] is initiated by serving on the clerk[11], within four weeks of the service of the notice, a notice in writing (a 'notice of appeal') accompanied by a copy of the completion notice[12], and a statement of the grounds on which the appeal is made[13]. The clerk must, within two weeks of service of the notice of appeal, notify the appellant[14] that the clerk has received it, and serve a copy of it on the relevant authority whose notice is the subject of the appeal[15].

Provision is made in relation to the completion day pending such an appeal[16].

Where a person appeals against a completion notice and the appeal is not withdrawn or dismissed, the completion day is such day as the tribunal determines[17]. Where an appeal has been brought against a completion notice, the power of the billing authority to withdraw a notice[18] is only exercisable with the consent in writing of the owner[19] of the building to which the notice relates[20].

Where a completion notice is not withdrawn and no appeal is brought against the notice, or where any appeal is dismissed or withdrawn, the day stated in the notice is the completion day in relation to the building[21].

1 As to completion notices see para 65 ante.

2 As to billing authorities see para 5 ante.

3 As to the meaning of 'building' for these purposes see para 65 note 7 ante; definition applied by the Local Government Finance Act 1988 s 46A(1), Sch 4A para 10(1) (s 46A, Sch 4A both added by the Local Government and Housing Act 1989 s 139, Sch 5 paras 36, 79(3)).

4 Local Government Finance Act 1988 Sch 4A para 3(1) (as added: see note 3 supra).

5 Ie an agreement under ibid Sch 4A para 3(1) (as added) (see the text and notes 1–4 supra): see Sch 4A para 3(2) (as added: see note 3 supra).

6 Ibid Sch 4A para 3(2) (as added: see note 3 supra).

7 As to valuation officers generally see para 6 ante; and see para 65 note 15 ante.

8 Local Government Finance Act 1988 Sch 4A para 7(3) (Sch 4A as added (see note 3 supra); Sch 4A paras 4(1), 6(3), 7(3) amended by the Local Government Finance Act 1992 Sch 13 para 83).

9 Local Government Finance Act 1988 Sch 4A para 4(1) (as added and amended: see note 8 supra). As to appeals to a valuation tribunal generally see para 147 et seq post.

10 For these purposes, 'completion notice' means a notice under ibid Sch 4A para 1 (as added and amended) (see para 65 ante), as it applies for the purposes of the non-domestic rating provisions in Pt III (ss 41–67)

(as amended) (see paras 7 et seq ante, 69 et seq post), which states the completion day as 1 April 2005 or later: Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 2(1); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 2(1). As to transitional arrangements made in relation to the period before 1 April 2005 see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 44; and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 44. For the meaning of 'appeal' for these purposes see para 151 note 1 post.

11 'Clerk', in relation to an appeal, means the clerk of the relevant valuation tribunal: Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 2(1); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 2(1). For the meanings of 'relevant valuation tribunal' and 'valuation tribunal' see para 129 note 8 post.

12 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 19(1)(a); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 19(1)(a).

13 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 19(1)(b); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 19(1)(b).

14 Any reference in the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659 (as amended) or in the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, (as amended), as the case may be, to a party to an appeal includes the person making the appeal (the 'appellant') and, in relation to an appeal against a completion notice, the relevant authority: Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 2(3)(c); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 2(3)(c). For the meaning of 'relevant authority' see para 129 note 3 post.

15 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 19(2); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 19(2).

16 See the Local Government Finance Act 1988 Sch 4A para 6 (as added and amended). Accordingly, where an appeal under Sch 4A para 4 (as added and amended) (see the text and note 9 supra) is brought against a completion notice, then in relation to any day on which the appeal is pending s 45 (as amended) (see paras 62–63 ante) applies by virtue of s 46A(4) (as added) (see para 62 note 4 ante) as if the day stated in the notice had been determined under Sch 4A (as added and amended) as the completion day in relation to the building to which the notice relates: Sch 4A para 6(1) (as added: see note 3 supra). The Secretary of State (or the Welsh Ministers, as the case may be) may make regulations providing for the making of financial adjustments where Sch 4A para 6(1) (as added) applies but the day stated in the completion notice is not actually determined as the completion day in relation to the building to which the notice relates: Sch 4A para 6(2) (as so added). Such regulations may include provision requiring payments or repayments to be made (with or without interest) and provision as to the recovery (by deduction or otherwise) of sums due: Sch 4A para 6(3) (as added and amended: see note 8 supra). However, at the date at which this volume states the law, no such regulations had been made. For the purpose of deciding, for the purposes of Sch 4A para 6 (as added and amended), whether an appeal is pending on a particular day, the state of affairs existing immediately before the day ends is to be treated as having existed throughout the day: Sch 4A para 6(4) (as so added). As to the Secretary of State and the Welsh Ministers see para 3 ante.

17 Ibid Sch 4A para 4(2) (as added: see note 3 supra).

18 Ie under ibid Sch 4A para 1(3) (as added and amended) (see para 65 ante): see Sch 4A para 1(4) (as added: see note 3 supra).

19 For the meaning of 'owner' for these purposes see para 65 note 14 ante.

20 Local Government Finance Act 1988 Sch 4A para 1(4) (as added: see note 3 supra).

21 Ibid Sch 4A para 5 (as added: see note 3 supra).

(ii) Central Non-domestic Rating Lists

69. Hereditaments entered in central rating lists. The ratepayer[1] is subject to a non-domestic rate in respect of a chargeable financial year[2] if for any day in the year his name is shown in a central non-domestic rating list in force for the year[3]. In such a case, the ratepayer is liable to pay an amount calculated by: (1) finding the chargeable amount for each chargeable day[4]; and (2) aggregating the amounts found under head (1) above[5]. The chargeable amount for a chargeable day is calculated by multiplying the rateable

value[6] by the non-domestic rating multiplier for the financial year[7], and by using the number of days in the financial year[8] to divide the product[9].

The amount the ratepayer is liable to pay must be paid to the Secretary of State (or the Welsh Ministers, as the case may be)[10].

1 Ie a person who is subject to a non-domestic rate as regards a hereditament in a central rating list: see the Local Government Finance Act 1988 s 54(1). For the meaning of 'hereditament' see para 33 et seq ante. Some large properties which are national in character appear on a central rating list held by the Secretary of State: see para 125 et seq post.
2 For the purposes of the Local Government Finance Act 1988, chargeable financial years are financial years beginning in 1990 and subsequent years: s 145(1). For the meaning of 'financial year' for these purposes see para 1 note 1 ante.
3 Local Government Finance Act 1988 s 54(1).
4 Ibid s 54(2)(a). A chargeable day is one which falls within the financial year and for which the ratepayer's name is shown in the list: s 54(3).
5 Ibid s 54(2)(b).
6 Ie the rateable value shown for the day in the list against the ratepayer's name: see ibid s 54(5).
7 See ibid s 54(6).
8 See ibid s 54(7).
9 Ibid s 54(4).
10 Ibid s 54(8). As to the Secretary of State and the Welsh Ministers see para 3 ante. The liability to pay any such amount is discharged by making a payment or payments in accordance with regulations made under s 62, Sch 9 (as amended) (see para 141 et seq post): s 54(9). As to the regulations so made see the Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989, SI 1989/2260 (amended by SI 1991/142; SI 1992/1513; SI 1993/1494; in relation to England only by SI 2006/237) (see paras 170, 175, 207 et seq post). As to the making of regulations under the Local Government Finance Act 1988 generally see para 3 ante.

(iii) Relief Schemes

A. MANDATORY RELIEF FOR OCCUPIED HEREDITAMENTS

(A) Small Businesses

70. Small business rate relief. The formula used to calculate the amount payable for occupied hereditaments[1] in the local non-domestic rating list[2] may be modified in certain circumstances in order to reduce the burden for small businesses[3].

Accordingly, in relation to England[4], where[5]:

(1) the rateable value of the hereditament shown in the local non-domestic rating list for the first day of the chargeable financial year[6] is not more than any amount prescribed by the Secretary of State[7] by order[8];
(2) on the day concerned any conditions prescribed by the Secretary of State by order are satisfied[9]; and
(3) the ratepayer has made an application for these purposes to the billing authority[10] concerned by such date as may be prescribed by the Secretary of State by order[11],

the chargeable amount for a chargeable day[12] is calculated by: (a) multiplying the rateable value[13] by the small business non-domestic rating multiplier for the financial year[14]; (b) multiplying the number of days in the financial year[15] by such amount as may be prescribed for the purpose by the Secretary of State by order[16]; and (c) dividing the product found under head (a) above by the product found under head (b) above[17].

Similarly, in relation to Wales[18], where[19]:

(i) the rateable value of the hereditament shown in the local non-domestic rating list for the first day of the chargeable financial year is not more than any amount prescribed by the Welsh Ministers[20] by order[21]; and

(ii) on the day concerned any conditions prescribed by the Welsh Ministers by order are satisfied[22],

the chargeable amount for a chargeable day is calculated by: (A) multiplying the rateable value[23] by the non-domestic rating multiplier for the financial year[24]; (B) multiplying the number of days in the financial year[25] by such amount as may be prescribed for the purpose by the Welsh Ministers by order[26]; and (C) dividing the product found under head (A) above by the product found under head (B) above[27].

The amount the ratepayer is liable to pay must be paid to the billing authority in whose local non-domestic rating list the hereditament is shown[28].

1 For the meaning of 'hereditament' see para 33 et seq ante. As to occupation see para 12 et seq ante.
2 As to local non-domestic rating lists see para 121 et seq post.
3 As to liability to the non-domestic rate for occupied hereditaments in the local non-domestic rating lists see the Local Government Finance Act 1988 s 43(4) (as amended); and para 60 ante. As to discretionary relief which may be available see para 80 post.
4 For the meaning of 'England' see para 1 note 2 ante.
5 Local Government Finance Act 1988 s 43(4B)(a) (s 43(4A)–(4D) added by the Local Government Act 2003 s 61(1), (3)).
6 For the purposes of the Local Government Finance Act 1988, chargeable financial years are financial years beginning in 1990 and subsequent years: s 145(1). For the meaning of 'financial year' for these purposes see para 1 note 1 ante.
7 As to the Secretary of State see para 3 ante.
8 Local Government Finance Act 1988 s 43(4B)(a)(i) (as added: see note 5 supra). For the purposes of s 43(4B)(a)(i) (as added), the amount prescribed, for a hereditament situated in Greater London, is £21,499 and, for a hereditament situated outside Greater London, it is £14,999: Non-Domestic Rating (Small Business Rate Relief) (England) Order 2004, SI 2004/3315, art 2. As to the making of orders under the Local Government Finance Act 1988 generally see para 3 ante.
9 Local Government Finance Act 1988 s 43(4B)(a)(ii) (as added: see note 5 supra). For the purposes of s 43(4B)(a)(ii) (as added), the conditions to be satisfied are the conditions in the Non-Domestic Rating (Small Business Rate Relief) (England) Order 2004, SI 2004/3315, art 3(2)–(5) (as substituted): see art 3(1), (6), (7) (art 3 substituted by SI 2006/2313). As to notices required for certain purposes under the Non-Domestic Rating (Small Business Rate Relief) (England) Order 2004, SI 2004/3315, art 3(5) (as substituted) see art 4A (added by SI 2006/2313). As to service of such notice see the Non-Domestic Rating (Small Business Rate Relief) (England) Order 2004, SI 2004/3315, art 5 (amended by SI 2006/2313).
10 As to billing authorities see para 5 ante.
11 Local Government Finance Act 1988 s 43(4B)(a)(iii) (as added: see note 5 supra). An application under s 43(4B)(a)(iii) (as added) also must be made in such form, and contain such information, as may be prescribed by the Secretary of State by order: s 43(4C) (as so added). Accordingly, an application under s 43(4B)(a)(iii) (as added) must be in the form specified in the Non-Domestic Rating (Small Business Rate Relief) (England) Order 2004, SI 2004/3315, art 4(1), Schedule (Schedule substituted by SI 2006/2313) or a form to the like effect, and must contain the information there specified: see the Non-Domestic Rating (Small Business Rate Relief) (England) Order 2004, SI 2004/3315, art 4(1). Such an application also must be signed by the ratepayer or a person authorised to sign on behalf of the ratepayer: see art 4(1), (2). As to service of the application on the billing authority see art 5 (as amended: see note 9 supra).

If the ratepayer either makes a statement in an application under the Local Government Finance Act 1988 s 43(4B)(a)(iii) (as added) which he knows to be false in a material particular, or recklessly makes a statement in such an application which is false in a material particular, he is liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding level 3 on the standard scale or to both: s 43(4D) (as so added).

'Standard scale' means the standard scale of maximum fines for summary offences as set out in the Criminal Justice Act 1982 s 37 (as amended): see the Interpretation Act 1978 s 5, Sch 1 (definition added by the Criminal Justice Act 1988 s 170(1), Sch 15 para 58); and CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(4) (2006 Reissue) para 1676; MAGISTRATES vol 29(2) (Reissue) para 804. At the date at which this volume states the law, the standard scale is as follows: level 1, £200; level 2, £500; level 3, £1,000; level 4, £2,500; level 5, £5,000: Criminal Justice Act 1982 s 37(2) (substituted by the Criminal Justice Act 1991 s 17(1)). As to the determination of the amount of the fine actually imposed, as distinct from the level on the standard scale which it may not exceed, see the Criminal Justice Act 2003 s 164 (as amended); and CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(4) (2006 Reissue) para 1678; MAGISTRATES vol 29(2) (Reissue) para 807.

12 For these purposes, a chargeable day is one which falls within the financial year and in respect of which the conditions in the Local Government Finance Act 1988 s 43(1) (see para 60 ante) are fulfilled: s 43(3).

13 Ie the rateable value shown for the day in the local non-domestic rating list under ibid s 42(4) (as amended) (see para 123 et seq post) as regards the hereditament: see s 44(1), (2) (s 44(2) amended by the Local Government and Housing Act 1989 s 194(4), Sch 5 paras 1, 21, 79(3), Sch 12 Pt II).

14 See the Local Government Finance Act 1988 s 44(1), (7) (s 44(7)–(9) added by the Local Government Act 2003 s 61(5)). The small business non-domestic rating multiplier is fixed annually by the Secretary of State using the method set out in the Local Government Finance Act 1988 s 56(2), Sch 7 (as amended): see para 86 note 6 post.

Where the billing authority is a special authority, the figure used for the small business non-domestic rating multiplier is the authority's small business non-domestic rating multiplier for the financial year: see the Local Government Finance Act 1988 s 44(1), (8) (s 44(8) as so added). As to special authorities see para 60 note 10 ante.

15 See ibid s 44(1), (6).

16 See ibid s 44(1), (9)(a) (as added: see note 14 supra). The amount so prescribed for the purposes of s 44(9)(a) (as added) is:

(1) two, where the rateable value of the hereditament shown in the local non-domestic rating list for the chargeable day for which small business rate relief is sought is not more than £5,000 (see the Non-Domestic Rating (Small Business Rate Relief) (England) Order 2004, SI 2004/3315, art 6(1)(a));

(2) the amount derived from dividing 10,000 by the rateable value of the hereditament shown in the local non-domestic rating list for that day, where the rateable value of the hereditament shown in the local non-domestic rating list for the chargeable day for which small business rate relief is sought is more than £5,000 and not more than £10,000 (art 6(1)(b)); and

(3) one, where the rateable value of the hereditament shown in the local non-domestic rating list for the chargeable day for which small business rate relief is sought is more than £10,000 and not more than the amount prescribed, as regards the hereditament, in art 2 (see note 8 supra) (art 6(1)(c)).

Amounts calculated under head (2) supra are to be calculated to three decimal places, only adding one thousandth where otherwise there would be more than five ten-thousandths and only ignoring the ten-thousandths where otherwise there would be five (or less than five) ten-thousandths: art 6(2).

17 See the Local Government Finance Act 1988 s 43(4A)(a) (as added: see note 5 supra).

In relation to any hereditament in respect of which both s 43(4A) (as added) and s 43(6A) (as added and amended) (rural settlements) (see para 76 et seq post), but not s 43(5) (charities etc) (see para 73 post), have effect on the day concerned, the chargeable amount, in relation to England, is to be calculated in accordance with s 43(6A) (as added and amended): s 43(8A) (added by the Rating (Former Agricultural Premises and Rural Shops) Act 2001 s 1(1), (4); the Local Government Finance Act 1988 s 43(8A) substituted by the Local Government Act 2003 s 61(1), (4)). In relation to any hereditament in respect of which the Local Government Finance Act 1988 s 43(4A) (as added), s 43(5) and s 43(6A) (as added and amended) each have effect on the day concerned, or in respect of which s 43(4A) (as added) and s 43(5) both have effect on that day, the chargeable amount is to be calculated in accordance with s 43(5): s 43(8B) (added by the Local Government Act 2003 s 61(1), (4)).

18 For the meaning of 'Wales' see para 1 note 2 ante.

19 See the Local Government Finance Act 1988 s 43(4B)(b) (as added: see note 5 supra).

20 As to the Welsh Ministers see para 3 ante.

21 Local Government Finance Act 1988 s 43(4B)(b)(i) (as added: see note 5 supra). For the purposes of s 43(4B)(b)(i) (as added), the amount prescribed for a hereditament is £12,000: Non-Domestic Rating (Small Business Relief) (Wales) Order 2006, SI 2006/3345, art 3. The order so made was made by the National Assembly for Wales under powers which are now transferred to the Welsh Ministers: see para 3 ante.

22 See the Local Government Finance Act 1988 s 43(4B)(b)(ii) (as added: see note 5 supra). For the purposes of s 43(4B)(b)(ii) (as added), in respect of hereditaments whose rateable value is £5,000 or less, the conditions to be satisfied are set out in the Non-Domestic Rating (Small Business Relief) (Wales) Order 2006, SI 2006/3345, arts 2, 4 (art 2 amended by SI 2007/2438). In respect of hereditaments whose rateable value is £12,000 or less, the condition to be satisfied is set out in the Non-Domestic Rating (Small Business Relief) (Wales) Order 2006, SI 2006/3345, art 5.

23 Ie the rateable value shown for the day in the local non-domestic rating list under the Local Government Finance Act 1988 s 42(4) (as amended) (see para 123 et seq post) as regards the hereditament: see s 44(1), (2) (s 44(2) as amended: see note 13 supra).

24 See ibid s 44(1), (4). The non-domestic rating multiplier is a uniform amount applying to every billing authority area and is fixed annually by the Secretary of State (or the Welsh Ministers, as the case may be) using the method set out in s 56(2), Sch 7 (as amended): see para 86 note 6 post.

Where the billing authority is a special authority, the figure used for the non-domestic rating multiplier is the authority's non-domestic rating multiplier for the financial year: see s 44(1), (5) (amended by the Local Government Finance Act 1992 s 117(1), Sch 13 para 61).

25 See the Local Government Finance Act 1988 s 44(1), (6).

26 See ibid s 44(1), (9)(b) (as added: see note 14 supra). The amount prescribed for the purposes of s 44(9)(b) (as added) is:

(1) two, where the rateable value of the hereditament is £2,000 or less and the conditions in art 4 (see note 22 supra) are satisfied (Non-Domestic Rating (Small Business Relief) (Wales) Order 2006, SI 2006/3345, art 6(a));

(2) one and one-third (decimal), where the rateable value of the hereditament is more than £2,000 but not more than £5,000 and the conditions in art 4 (see note 22 supra) are satisfied (art 6(b));

(3) 1,000,000, where the rateable value of the hereditament is £9,000 or less and the condition in art 5 (see note 22 supra) is satisfied (art 6(c));

(4) two, where the rateable value of the hereditament is more than £9,000 but not more than £12,000 and the condition in art 5 (see note 22 supra) is satisfied (art 6(d)).

27 See the Local Government Finance Act 1988 s 43(4A)(b) (as added: see note 5 supra).

In relation to any hereditament in respect of which both s 43(4A) (as added) and s 43(6A) (as added and amended) (rural settlements) (see para 76 et seq post), but not s 43(5) (charities etc) (see para 73 post) have effect on the day concerned, the chargeable amount, in relation to Wales, is to be calculated in accordance with whichever of s 43(4A) (as added) and s 43(6A) (as added and amended) produces the smaller amount: s 43(8A) (as added and substituted: see note 17 supra). In relation to any hereditament in respect of which s 43(4A) (as added), s 43(5) and s 43(6A) (as added and amended) each have effect on the day concerned, or in respect of which s 43(4A) (as added) and s 43(5) both have effect on that day, the chargeable amount is to be calculated in accordance with s 43(5): s 43(8B) (as added: see note 17 supra).

28 Ibid s 43(7) (amended by the Local Government Finance Act 1992 Sch 13 para 60). The liability to pay any such amount is discharged by making a payment or payments in accordance with regulations made under the Local Government Finance Act 1988 s 62, Sch 9 (as amended) (see para 141 et seq post): s 43(8). As to the regulations so made see the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058 (amended by the Statute Law (Repeals) Act 1995; SI 1990/145; SI 1991/141; SI 1991/1127; SI 1992/474; SI 1992/1512; SI 1993/616; SI 1993/774; SI 1993/1493; SI 1996/675; SI 1996/1880; SI 1998/3089; SI 2005/617; in relation to England only by SI 2000/2026; SI 2001/362; SI 2003/2210; SI 2003/2604; SI 2003/3052; SI 2006/237; SI 2006/3395; SI 2007/501; in relation to Wales only by SI 2001/1076; SI 2003/1714; SI 2004/1013) (see paras 170, 175 et seq post). As to the making of regulations under the Local Government Finance Act 1988 generally see para 3 ante.

(B) Charities and Community Amateur Sports Clubs

71. Historical development of right to charitable relief and its extended scope. Before new valuation lists came into force in 1956, there was a divergence between the law and practice with regard to the rating of charities[1]. At law, it had long been established that charitable organisations were rateable in respect of the hereditaments they occupied[2], but in practice rating authorities frequently undervalued the hereditaments of charitable and kindred bodies, and by this means those bodies paid only reduced or nominal rates. When rating authorities[3] ceased to be responsible for preparing and amending valuation lists[4] this divergence of law and practice was ended, and in the valuation lists which came into force in 1956 the valuation officers of the Inland Revenue Commissioners assessed such hereditaments at their full value[5].

Under the Local Government Finance Act 1988, in respect of three categories of hereditament, namely where the ratepayers are: (1) charities[6]; (2) trustees for a charity; or (3) qualifying community amateur sports clubs[7], the chargeable amount for which the ratepayer is liable[8] is reduced, in relation to any occupied hereditament[9] where the qualifying ratepayer uses the hereditament wholly or mainly for charitable purposes[10] (whether of that charity or of that and other charities) or for the purposes of the registered club (whichever applies)[11]. Hereditaments which are to be used for such purposes but which are temporarily unoccupied may qualify for zero-rating[12].

1 As to the historical development of rating law and the continuing relevance of the old case law to the current statutory regime see para 2 ante.

2 *Mersey Docks and Harbour Board Trustees v Cameron, Jones v Mersey Docks and Harbour Board Trustees* (1865) 11 HL Cas 443; *London Corpn v Stratton* (1875) LR 7 HL 477.

3 Rating authorities have been replaced by billing authorities (as to which see para 5 ante).

4 Ie by virtue of the Local Government Act 1948 s 33 (repealed). As to valuation lists see para 118 et seq post.

5 For the meaning of 'hereditament' for these purposes see para 33 et seq ante. As to occupation see para 12 et seq ante.

6 For the meaning of 'charity' for these purposes see para 73 note 3 post.

7 As to the qualifying purposes see para 73 note 7 post. The category mentioned in head (3) in the text was added to the charitable categories by the Local Government Act 2003 but it is submitted that the established principles of rating law as it relates to charities apply equally to qualifying community amateur sports clubs for these purposes.

8 As to the liability which is applicable generally see the Local Government Finance Act 1988 s 43(4) (as amended); and para 60 ante.

9 As to occupation by a charity see para 74 post.

10 As to the meaning of 'wholly or mainly used for charitable purposes' see para 75 post.

11 See the Local Government Finance Act 1988 s 43(5), (6) (s 45(6) as amended); and para 73 post. As to discretionary relief which may be available see para 80 post.

12 See ibid s 45A (as added); and para 78 post.

72. Establishment of right to relief. Under the General Rate Act 1967 (now repealed)[1], the right to charity rating relief could be established by resisting proceedings in the magistrates' court brought by the rating authority[2] for non-payment of rates[3] or by proceedings in the High Court for a declaration[4]. It would seem that such procedures are still available under the Local Government Finance Act 1988[5].

1 As to the historical development of rating law and the continuing relevance of the old case law to the current statutory regime see para 2 ante.

2 See eg *Meriden RDC v White* [1972] RA 530, DC; *Ealing London Borough Council v Ladyeholme Co Ltd* [1974] RA 399; *Royal Society for the Protection of Birds v Hornsea UDC* [1975] RA 26, DC. Rating authorities have been replaced by billing authorities (as to which see para 5 ante).

3 Then by means of an application for a distress warrant, now by means of an application for a liability order (as to which see para 194 post).

4 This was done in eg *Over Seventies Housing Association v Westminster City Council* [1974] RA 247; *Oxfam v Birmingham City District Council* [1976] AC 126, [1975] 2 All ER 289, HL; *Forces Help Society and Lord Roberts Workshops v Canterbury City Council* [1979] RA 68. As to the right of qualifying community amateur sports clubs to relief analogous to charitable relief see para 71 ante.

5 A judicial review of a magistrates' court decision, in making a liability order in respect of non-domestic rates that were unpaid on the basis of a claim for charitable relief, was made in *R (on the application of Tower of Refuge Ministry) v Highbury Corner Magistrates' Court* [2004] EWHC 2372 (Admin), [2004] RVR 269, [2004] All ER (D) 414 (Jul) (authority had been entitled to withdraw mandatory relief in the light of the use of a false charity number and lack of evidence that the claimant was a charitable organisation).

73. Relief for charities and community amateur sports clubs. Where on the day concerned[1]: (1) the ratepayer[2] is a charity[3] or trustees for a charity and the occupied hereditament[4] is wholly or mainly used for charitable purposes[5] (whether of that charity or of that and other charities)[6]; or (2) the ratepayer is a registered community amateur sports club[7] and the hereditament is wholly or mainly used either for the purposes of that club, or for the purposes of that club and of other such registered clubs[8], the chargeable amount for a chargeable day[9] is calculated by: (a) multiplying the rateable value[10] by the non-domestic rating multiplier for the financial year[11]; (b) multiplying by five the number of days in the financial year[12]; and (c) dividing the product found under head (a) above by the product found under head (b) above[13].

The amount the ratepayer is liable to pay must be paid to the billing authority in whose local non-domestic rating list the hereditament is shown[14].

1 The Local Government Finance Act 1988 s 43(6) (as amended) applies on a particular day if (and only if) it applies immediately before the day ends: s 67(7) (amended by Rating (Empty Properties) Act 2007 s 2(1), Sch 1 para 5).

2 Ie a person who is subject to a non-domestic rate as regards a hereditament in a local rating list: see the Local Government Finance Act 1988 s 43(1); and para 60 ante. For the meaning of 'hereditament' see para 33 et seq ante. As to the liability to the non-domestic rate for occupied hereditaments in the local non-domestic rating lists see para 60 ante. As to local non-domestic rating lists see para 121 et seq post.

3 For these purposes, 'charity' means an institution or other organisation established for charitable purposes only or any persons administering a trust established for charitable purposes only: ibid s 67(10). As to charities and charitable purposes generally see CHARITIES. Registration under the charities legislation is conclusive that the organisation is a charity for the purposes of the relief from rates: see eg *Wynn v Skegness UDC* [1966] 3 All ER 336, [1967] 1 WLR 52, ChD; *Finch v Poplar Borough Council* (1967) 66 LGR 324, [1968] RA 208, ChD; *Meriden RDC v White* [1972] RA 530, 17 RRC 187.

Some of the cases cited in this paragraph were decided prior to the coming into force of the Local Government Finance Act 1988 and, therefore, must now be considered in relation to the non-domestic rating provisions in Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 74 et seq post). As to the historical development of rating law and the continuing relevance of the old case law to the current statutory regime see para 2 ante.

4 As to occupation by a charity see para 74 post.

5 As to the meaning of 'wholly or mainly used for charitable purposes' see para 75 post.

6 Local Government Finance Act 1988 s 43(6)(a) (renumbered by the Local Government Act 2003 s 64(1)(a)).

7 Ie for the purposes of the Finance Act 2002 s 58, Sch 18 (Sch 18 as amended) (relief for community amateur sports clubs) (see CAPITAL GAINS TAXATION vol 5(1) (2004 Reissue) para 291): see the Local Government Finance Act 1988 s 43(6)(b) (as added: see note 8 infra). The times at which a club is a registered club for the purposes of the Finance Act 2002 Sch 18 (as amended) are to be taken, where it is registered with retrospective effect, to have included those within the period beginning with the date with effect from which it is registered and ending with its registration: Local Government Finance Act 1988 s 67(10A)(a) (s 67(10A) added by the Local Government Act 2003 s 64(5)). However, the times at which a club is such a registered club are to be taken, where its registration is terminated with retrospective effect, not to have included those within the period beginning with the date with effect from which its registration is terminated and ending with the termination of its registration: Local Government Finance Act 1988 s 67(10A)(b) (as so added).

8 Ibid s 43(6)(b) (added by the Local Government Act 2003 s 64(1)(b)).

9 For these purposes, a chargeable day is one which falls within the financial year and in respect of which the conditions in the Local Government Finance Act 1988 s 43(1) (see para 60 ante) are fulfilled: s 43(3). For the purposes of the Local Government Finance Act 1988, chargeable financial years are financial years beginning in 1990 and subsequent years: s 145(1). For the meaning of 'financial year' for these purposes see para 1 note 1 ante.

10 Ie the rateable value shown for the day in the local non-domestic rating list under ibid s 42(4) (as amended) (see para 123 et seq post) as regards the hereditament: see s 44(1), (2) (s 44(2) amended by the Local Government and Housing Act 1989 s 194(4), Sch 5 paras 1, 21, 79(3), Sch 12 Pt II).

11 See the Local Government Finance Act 1988 s 44(1), (4). The non-domestic rating multiplier is a uniform amount applying to every billing authority area and is fixed annually by the Secretary of State (or the Welsh Ministers, as the case may be) using the method set out in s 56(2), Sch 7 (as amended): see para 86 note 6 post.

Where the billing authority is a special authority, the figure used for the non-domestic rating multiplier is the authority's non-domestic rating multiplier for the financial year: see s 44(1), (5) (amended by the Local Government Finance Act 1992 s 117(1), Sch 13 para 61).

12 See the Local Government Finance Act 1988 s 44(1), (6).

13 Ibid s 43(5). This modification has the effect of reducing by 80% the chargeable amount which applies generally to the non-domestic rate for occupied hereditaments in the local non-domestic rating lists (as to which see para 60 ante). As to discretionary relief which may be available see para 80 post.

In relation to any hereditament in respect of which s 43(4A) (as added) (mandatory small business rate relief) (see para 70 ante), s 43(5) and s 43(6A) (as added and amended) (rural settlements) (see para 76 et seq post) each have effect on the day concerned, or in respect of which s 43(4A) (as added) and s 43(5) both have effect on that day, or in respect of which s 43(5) and s 43(6A) (as added and amended) both have effect on that day, the chargeable amount is to be calculated in accordance with s 43(5): s 43(8B) (added by the Local Government Act 2003 s 61(1), (4)).

14 Local Government Finance Act 1988 s 43(7) (amended by the Local Government Finance Act 1992 Sch 13 para 60). The liability to pay any such amount is discharged by making a payment or payments in accordance with regulations made under the Local Government Finance Act 1988 s 62, Sch 9 (as amended) (see para 141 et seq post): s 43(8). As to the regulations so made see the Non-Domestic Rating

(Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058 (amended by the Statute Law (Repeals) Act 1995; SI 1990/145; SI 1991/141; SI 1991/1127; SI 1992/474; SI 1992/1512; SI 1993/616; SI 1993/774; SI 1993/1493; SI 1996/675; SI 1996/1880; SI 1998/3089; SI 2005/617; in relation to England only by SI 2000/2026; SI 2001/362; SI 2003/2210; SI 2003/2604; SI 2003/3052; SI 2006/237; SI 2006/3395; SI 2007/501; in relation to Wales only by SI 2001/1076; SI 2003/1714; SI 2004/1013) (see paras 170, 175 et seq post). As to the making of regulations under the Local Government Finance Act 1988 generally see para 3 ante.

74. Occupation by a charity. Charities registered under the Charities Act 1993[1] are conclusively presumed to be charities for the purposes of the rating legislation[2]. However, a body whose application to be registered as a charity has been rejected by the Charity Commissioners may still contend that it is a charity for the purposes of the rating legislation[3]. For rating purposes, a charity occupies a house in which one of its officers or servants resides if it is essential to the performance of his duties that he should reside in it or in one close by and it is the mutual understanding that he should do so; or, even though it is not essential that he reside in the house or in one close by, if he can by doing so better perform his duties to a material degree and there is an express term in the contract that he should reside there[4]. Charities which provided flats for the dependants of deceased officers of the armed services, and for ex-servicemen, have been held to be in occupation of the flats[5].

1 As to the registration of charities under the Charities Act 1993 (which register is continued for the purposes of the Charities Act 2006) see CHARITIES vol 5(2) (2001 Reissue) para 282 et seq.

2 See e g *Wynn v Skegness UDC* [1966] 3 All ER 336, [1967] 1 WLR 52, ChD; *Finch v Poplar Borough Council* (1967) 66 LGR 324, [1968] RA 208, ChD; *Meriden RDC v White* [1972] RA 530, 17 RRC 187.

As to mandatory relief from non-domestic rates which is available to charities under the rating legislation see para 73 ante. Some of the cases cited in this paragraph were decided prior to the coming into force of the Local Government Finance Act 1988 and, therefore, must now be considered in relation to the non-domestic rating provisions in Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 75 et seq post). As to the historical development of rating law and the continuing relevance of the old case law to the current statutory regime see para 2 ante.

3 See *Over Seventies Housing Association v Westminster City Council* [1974] RA 247. Cf *R (on the application of Tower of Refuge Ministry) v Highbury Corner Magistrates' Court* [2004] EWHC 2372 (Admin), [2004] All ER (D) 414 (Jul), where the withdrawal of mandatory relief from non-domestic rates was upheld despite a letter adduced from the Charities Commissioners to the effect that they were considering an application by the claimant for registration.

4 *Glasgow Corpn v Johnstone* [1965] AC 609, [1965] 1 All ER 730, HL (house occupied by church officer); *Northern Ireland Comr of Valuation v Fermanagh Protestant Board of Education* [1969] 3 All ER 352, [1969] 1 WLR 1708, HL (teachers' houses); *Valuation Comr v Redemptorist Order Trustees* [1972] RA 145, NI CA (monastery where members of religious order lived and from where they carried out its charitable purposes); *Royal Society for the Protection of Birds v Hornsea UDC* [1975] RA 26, DC (house for warden at bird reserve).

5 *Soldiers', Sailors' and Airmen's Families Association v Merton Corpn* [1966] 3 All ER 780, [1967] 1 WLR 127, CA; *Forces Help Society and Lord Roberts Workshops v Canterbury City Council* [1979] RA 68; and see *Ealing London Borough Council v Ladyeholme Co Ltd* [1974] RA 399.

75. Hereditaments used wholly or mainly for charitable purposes. In deciding whether a hereditament[1] is wholly or mainly used for charitable purposes[2], the use made of the hereditament by the occupier must be considered[3]. The use must be for purposes which directly facilitate the carrying out of the main charitable purposes of the charity[4], and use for the purpose of raising money to further the charitable objects does not qualify for relief[5]. However, a hereditament is to be treated as wholly or mainly used for charitable purposes at any time if at the time it is wholly or mainly used for the sale of goods donated to a charity and the proceeds of sale of the goods (after any deduction of expenses) are applied for the purposes of a charity[6].

1 For the meaning of 'hereditament' see para 33 et seq ante.

2 As to mandatory relief from non-domestic rates which is available under the rating legislation as regards an occupied hereditament which is wholly or mainly used for charitable purposes see para 73 ante.

3 See *Glasgow Corpn v Johnstone* [1965] AC 609, [1965] 1 All ER 730, HL, where the residence of a church officer was held to be occupied by the church authority and used for charitable purposes, because his residence there was of material assistance to the church authority in carrying out its main charitable activities.

Some of the cases cited in this paragraph were decided prior to the coming into force of the Local Government Finance Act 1988 and, therefore, must now be considered in relation to the non-domestic rating provisions in Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 76 et seq post). As to the historical development of rating law and the continuing relevance of the old case law to the current statutory regime see para 2 ante.

4 *Glasgow Corpn v Johnstone* [1965] AC 609, [1965] 1 All ER 730, HL; *Oxfam v Birmingham City District Council* [1976] AC 126, [1975] 2 All ER 289, HL. See also *Polish Historical Institution Ltd v Hove Corpn* (1963) 61 LGR 438, DC; *Aldous v Southwark Corpn* [1968] 3 All ER 498, 15 RRC 269, CA. In *Wynn v Skegness UDC* [1966] 3 All ER 336, [1967] 1 WLR 52, trustees of a holiday centre for miners in need of a change of air admitted to it persons other than beneficiaries if there was surplus accommodation at charges sufficient to cover their cost; the admission of such persons, not to raise money, but to assist in keeping the centre functioning, was held to facilitate wholly and directly the carrying out of the trustees' main purpose. See also *Meriden RDC v White* [1972] RA 530, DC (colliery sports and social club); *Royal British Legion Attendants Co (Belfast) Ltd v Valuation Comr* [1979] NI 138, NI Lands Tribunal (employment of ex-servicemen as car park attendants); *MacConnell v Northern Ireland Valuation Comr* [1989] RA 221, NI Lands Tribunal (garage used for servicing charity's buses not exempt because hereditament not used wholly or mainly for charitable purposes).

5 *Oxfam v Birmingham City District Council* [1976] AC 126, [1975] 2 All ER 289, HL, where shops occupied by a charity and used to sell goods, most of which were donated, in order to raise funds for spending on charitable purposes were held not to be mainly used for charitable purposes; the actual decision, but not its reasoning, was reversed by what is now the Local Government Finance Act 1988 s 64(10) (see the text and note 6 infra). However, the selling in a shop of goods manufactured by blind persons in order to facilitate the provision of employment for the blind has been held to be a use for charitable purposes: *Belfast Association for Employment of Industrious Blind v Northern Ireland Valuation Comr* [1968] NI 21; and see *Royal Society for the Protection of Birds v Brighton Borough Council* [1982] RA 33.

6 Local Government Finance Act 1988 s 64(10). This has the effect of reversing the decision in *Oxfam v Birmingham City District Council* [1976] AC 126, [1975] 2 All ER 289, HL (see note 5 supra). However, the reasoning of the decision in *Oxfam v Birmingham City District Council* supra is unaffected.

(C) Rural Settlements in England

76. Rural rate relief in England. The formula used to calculate the amount payable for occupied hereditaments[1] in the local rating list[2] may be modified in certain circumstances in order to reduce the burden for occupied hereditaments in England[3] in the rural settlement list[4].

The circumstances that must be satisfied are that:

(1) the hereditament is situated in England[5];

(2) on the day concerned the hereditament is within a settlement identified in the billing authority's[6] rural settlement list for the chargeable financial year[7];

(3) the rateable value of the hereditament shown in the local non-domestic rating list at the beginning of that year is not more than any amount prescribed by the Secretary of State by order[8]; and

(4) on the day concerned[9]: (a) the whole or part of the hereditament is used as a qualifying general store[10], a qualifying food store[11] or qualifying post office[12]; or (b) any conditions prescribed by the Secretary of State by order are satisfied[13].

In such a case, the chargeable amount for a chargeable day[14] is calculated by: (i) multiplying the rateable value[15] by the non-domestic rating multiplier for the financial year[16]; (ii) multiplying by two the number of days in the financial year[17]; and (iii) dividing the product found under head (i) above by the product found under head (ii) above[18].

The amount the ratepayer is liable to pay must be paid to the billing authority in whose local non-domestic rating list the hereditament is shown[19].

1 For the meaning of 'hereditament' see para 33 et seq ante.

2 As to local non-domestic rating lists see para 121 et seq post.

3 For the meaning of 'England' see para 1 note 2 ante.

4 See the Local Government Finance Act 1988 s 43(4) (as amended); and para 60 ante. As to discretionary relief which may be available see para 80 post. As to rural settlement lists see para 124 post.

5 Ibid s 43(6B)(aa) (s 43(6A)–(6C), (6D)–(E) added by the Local Government and Rating Act 1997 s 1, Sch 1 para 2(b); the Local Government Finance Act 1988 s 43(6B)(aa) added by the Local Government Act 2003 s 63(2)).

6 As to billing authorities see para 5 ante.

7 Local Government Finance Act 1988 s 43(6B)(a) (as added: see note 5 supra). For the purposes of the Local Government Finance Act 1988, chargeable financial years are financial years beginning in 1990 and subsequent years: s 145(1). For the meaning of 'financial year' for these purposes see para 1 note 1 ante.

8 Ibid s 43(6B)(b) (as added: see note 5 supra). As to the Secretary of State and as to the making of orders under the Local Government Finance Act 1988 generally see para 3 ante; but see note 13 infra. The amount prescribed as the maximum amount of the rateable value for the purposes of s 43(6B)(b) (as added) is, in the case of a hereditament shown in local non-domestic rating lists for billing authorities in England a part or the whole of which is used as a public house or petrol filling station, £10,500 and, in the case of any other such hereditament, £7,000: see the Non-Domestic Rating (Rural Settlements) (England) Order 1997, SI 1997/2792, art 3(1), (3) (art 3(1) amended by SI 2001/1346; SI 2004/3153).

9 Local Government Finance Act 1988 s 43(6B)(c) (as added: see note 5 supra).

10 A hereditament, or part of a hereditament, is used as a qualifying general store on any day in a chargeable financial year if: (1) a trade or business consisting wholly or mainly of the sale by retail of both food for human consumption (excluding confectionery) and general household goods is carried on there (ibid s 43(6C)(a) (as added: see note 5 supra)); and (2) such a trade or business is not carried on in any other hereditament, or part of a hereditament, in the settlement concerned (s 43(6C)(b) (as so added)). Where a hereditament or part is used as a qualifying general store on any day in a chargeable financial year, it is not to be treated as ceasing to be so used on any subsequent day in that year merely because the condition in head (2) supra ceases to be satisfied: s 43(6E) (as so added).

11 A hereditament, or part of a hereditament, is used as a qualifying food store on any day in a chargeable financial year if a trade or business consisting wholly or mainly of the sale by retail of food for human consumption (excluding confectionery and excluding the supply of food in the course of catering) is carried on there: ibid s 43(6CA) (s 43(6CA), (6CB) added by the Rating (Former Agricultural Premises and Rural Shops) Act 2001 s 3(1), (3)). For these purposes, the supply of food in the course of catering includes any supply of food for consumption on the premises on which it is supplied as well as any supply of hot food for consumption off those premises; and for these purposes 'hot food' means food which, or any part of which has been heated for the purposes of enabling it to be consumed at a temperature above the ambient air temperature and is at the time of supply above that temperature: Local Government Finance Act 1988 s 43(6CB) (as so added).

12 Ibid s 43(6B)(c)(i) (s 43(6B) as added (see note 5 supra); s 43(6B)(c)(i) amended by the Rating (Former Agricultural Premises and Rural Shops) Act 2001 s 3(1), (2)).

A hereditament, or part of a hereditament, is used as a qualifying post office on any day in a chargeable financial year if:

(1) it is used for the purposes of a universal service provider within the meaning of the Postal Services Act 2000 and in connection with the provision of a universal postal service within the meaning of the Postal Services Act 2000 (see POST OFFICE vol 36(2) (Reissue) para 24) (Local Government Finance Act 1988 s 43(6D)(a) (s 43(6D) as added (see note 5 supra); s 43(6D)(a) amended by the Postal Services Act 2000 s 127(4), Sch 8 Pt II para 21)); and

(2) no other hereditament, or part of a hereditament, in the settlement concerned is so used (Local Government Finance Act 1988 s 43(6D)(b) (as so added)).

Where a hereditament or part is used as a qualifying post office on any day in a chargeable financial year, it is not to be treated as ceasing to be so used on any subsequent day in that year merely because the condition in head (2) supra ceases to be satisfied: s 43(6E) (as so added).

13 Ibid s 43(6B)(c)(ii) (as added: see note 5 supra). The power to make an order under s 43(6B)(c)(ii) (as added) is exercisable by statutory instrument, but no such order is to be made unless a draft of the order has been laid before and approved by resolution of each House of Parliament: s 143(3A) (added by the Local Government and Rating Act 1997 Sch 1 para 6(b)). The conditions so prescribed for the purpose of the Local Government Finance Act 1988 s 43(6B)(c)(ii) (as added) are that the whole or part of the hereditament is used as a public house or a petrol filling station, and in either case no other hereditament or part of a hereditament in the settlement concerned is so used: Non-Domestic Rating (Public Houses and Petrol Filling Stations) (England) Order 2001, SI 2001/1345, art 2.

14 For these purposes, a chargeable day is one which falls within the financial year and in respect of which the conditions in the Local Government Finance Act 1988 s 43(1) (see para 60 ante) are fulfilled: s 43(3).

15 Ie the rateable value shown for the day in the local non-domestic rating list under ibid s 42(4) (as amended) (see para 123 et seq post) as regards the hereditament: see s 44(1), (2) (s 44(2) amended by the Local Government and Housing Act 1989 s 194(4), Sch 5 paras 1, 21, 79(3), Sch 12 Pt II).

16 See the Local Government Finance Act 1988 s 44(1), (4). The non-domestic rating multiplier is a uniform amount applying to every billing authority area and is fixed annually by the Secretary of State using the method set out in s 56(2), Sch 7 (as amended): see para 86 note 6 post.

Where the billing authority is a special authority, the figure used for the non-domestic rating multiplier is the authority's non-domestic rating multiplier for the financial year: see s 44(1), (5) (amended by the Local Government Finance Act 1992 s 117(1), Sch 13 para 61).

17 See the Local Government Finance Act 1988 s 44(1), (6).

18 Ibid s 43(6A) (as added (see note 5 supra); amended by the Rating (Former Agricultural Premises and Rural Shops) Act 2001 s 1(1), (2)). This modification has the effect of reducing by 50% the chargeable amount which applies generally to the non-domestic rate for occupied hereditaments in the local non-domestic rating lists (as to which see para 60 ante).

In relation to any hereditament in respect of which both the Local Government Finance Act 1988 s 43(4A) (as added) (mandatory small business rate relief) (see para 70 et seq ante) and s 43(6A) (as added and amended), but not s 43(5) (charities etc) (see para 73 ante), have effect on the day concerned, the chargeable amount, in relation to England, is to be calculated in accordance with s 43(6A) (as added and amended) and, in relation to Wales, is to be calculated in accordance with whichever of s 43(4A) (as added) and s 43(6A) (as added and amended) produces the smaller amount: s 43(8A) (added by the Rating (Former Agricultural Premises and Rural Shops) Act 2001 s 1(1), (4); substituted by the Local Government Act 2003 s 61(1), (4)). It is submitted that the reference to Wales only has effect in respect of hereditaments which occupy land in both England and Wales. In relation to any hereditament in respect of which the Local Government Finance Act 1988 s 43(4A) (as added), s 43(5) and s 43(6A) (as added and amended) each have effect on the day concerned, or in respect of which s 43(5) and s 43(6A) (as added and amended) both have effect on that day, the chargeable amount is to be calculated in accordance with s 43(5): s 43(8B) (added by the Local Government Act 2003 s 61(1), (4)).

19 Local Government Finance Act 1988 s 43(7) (amended by the Local Government Finance Act 1992 Sch 13 para 60). The liability to pay any such amount is discharged by making a payment or payments in accordance with regulations made under the Local Government Finance Act 1988 s 62, Sch 9 (as amended) (see para 141 et seq post): s 43(8). As to the regulations so made see the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058 (amended by the Statute Law (Repeals) Act 1995; SI 1990/145; SI 1991/141; SI 1991/1127; SI 1992/474; SI 1992/1512; SI 1993/616; SI 1993/774; SI 1993/1493; SI 1996/675; SI 1996/1880; SI 1998/3089; SI 2005/617; in relation to England only by SI 2000/2026; SI 2001/362; SI 2003/2210; SI 2003/2604; SI 2003/3052; SI 2006/237; SI 2006/3395; SI 2007/501; in relation to Wales only by SI 2001/1076; SI 2003/1714; SI 2004/1013) (see paras 170, 175 et seq post). As to the making of regulations under the Local Government Finance Act 1988 generally see para 3 ante.

(D) Former Agricultural Premises

77. Mandatory relief for former agricultural land or buildings. The following provisions have effect, as from a day to be appointed, in relation to Wales only[1].

The formula used to calculate the amount payable for occupied hereditaments in the local rating list[2] may be modified in certain circumstances where land and buildings which had previously been (for a qualifying period) agricultural land and buildings are subsequently used for non-agricultural purposes[3].

The circumstances that must be satisfied are that:

(1) on the day concerned, the following condition is fulfilled in respect of the hereditament[4], namely that the hereditament: (a) consists wholly or mainly of land or buildings which were, on at least 183 days during the qualifying period[5], agricultural land or agricultural buildings for the purposes of the non-domestic rating agricultural exemption[6]; and (b) includes land or a building which is not agricultural for the purposes of that exemption but was agricultural for those purposes on at least 183 days during the period mentioned in head (a) above[7]; and

(2) the rateable value of the hereditament shown in the local non-domestic rating

list at the beginning of the chargeable financial year[8] is not more than any amount prescribed by the Secretary of State (or the Welsh Ministers, as the case may be) by order[9].

In such a case, the chargeable amount for a chargeable day[10] is calculated by: (i) multiplying the rateable value[11] by the non-domestic rating multiplier for the financial year[12]; (ii) multiplying by two the number of days in the financial year[13]; and (iii) dividing the product found under head (i) above by the product found under head (ii) above[14].

The amount the ratepayer is liable to pay must be paid to the billing authority in whose local non-domestic rating list the hereditament is shown[15].

1 The Local Government Finance Act 1988 s 43(6F)–(6L) is added by the Rating (Former Agricultural Premises and Rural Shops) Act 2001 s 1(1), (3) as from a day to be appointed under s 6(2). In relation to England, 17 July 2001 was appointed as that day for the purposes of making an order under the Local Government Finance Act 1988 s 43(6F) (as added) and 15 August 2001 was appointed as the day for all other purposes: see the Rating (Former Agricultural Premises and Rural Shops) Act 2001 (Commencement No 1) Order 2001, SI 2001/2580, art 2. However, at the date at which this volume states the law, no such day had been appointed in relation to Wales. For the meanings of 'England' and 'Wales' see para 1 note 2 ante.

The Local Government Finance Act 1988 s 43(6F)–(6L) (as added) ceases to have effect at the end of the period of five years beginning with the day on which those provisions come into effect: s 43(6J) (as so added). However, the Secretary of State (or the Welsh Ministers, as the case may be) may by order extend or further extend that period: s 43(6K) (as so added). If the period is so extended or further extended, s 43(6F) (as added) (see heads (1) and (2) in the text) cannot apply to a hereditament after the end of the period of five years beginning with the day on which it first applies and, where a hereditament to which s 43(6F) (as added) applies (the 'original hereditament') includes land or a building which is subsequently included in a different hereditament, that provision cannot apply to the different hereditament after the end of the period of five years beginning with the day on which it first applies to the original hereditament: s 43(6L) (as so added). For the meaning of 'hereditament' see para 33 et seq ante. As to the Secretary of State and the Welsh Ministers and as to the making of orders under the Local Government Finance Act 1988 generally see para 3 ante. At the date at which this volume states the law, no such order had been made. Accordingly, these provisions no longer have effect in relation to England and are yet to come into effect in relation to Wales.

2 As to local non-domestic rating lists see para 121 et seq post.

3 See the Local Government Finance Act 1988 s 43(4) (as amended); and para 60 ante. As to discretionary relief which may be available see para 80 post.

4 Ibid s 43(6F)(a) (prospectively added: see note 1 supra).

5 Ie on at least 183 days during the period of one year ending immediately before ibid s 43(6G)(a) (prospectively added) comes into effect: see s 43(6G)(a) (prospectively added: see note 1 supra).

6 Ibid s 43(6G)(a) (prospectively added: see note 1 supra). The text refers to land or buildings which were agricultural land or agricultural buildings for the purposes of s 51, Sch 5 para 1 (see para 43 et seq ante): see s 43(6G)(a) (prospectively added).

For the purposes of s 43(6G) (prospectively added) (see head (1)(a) and head (1)(b) in the text), in relation to any hereditament which includes property which is 'domestic' within the meaning of s 66 (as amended) (see para 120 post), s 43(6G)(a) (prospectively added) has effect as if that part of the hereditament which does not consist of such property were the entire hereditament, and a building which has replaced a building which was an agricultural building for the purposes of the exemption mentioned in s 43(6G) (prospectively added) (the 'original building') is treated as if it were the original building: s 43(6H) (prospectively added).

7 Ibid s 43(6G)(b) (prospectively added: see note 1 supra). See note 6 supra.

8 For the purposes of the Local Government Finance Act 1988, chargeable financial years are financial years beginning in 1990 and subsequent years: s 145(1). For the meaning of 'financial year' for these purposes see para 1 note 1 ante.

9 Ibid s 43(6F)(b) (prospectively added: see note 1 supra). In respect of any hereditament shown in a non-domestic rating list compiled on or after 1 April 2005 in relation to England, £7,000 is the amount specified for the purposes of s 43(6F)(b) (as added): Non-Domestic Rating (Former Agricultural Premises) (England) Order 2004, SI 2004/3152, arts 1–2.

10 For these purposes, a chargeable day is one which falls within the financial year and in respect of which the conditions in the Local Government Finance Act 1988 s 43(1) (see para 60 ante) are fulfilled: s 43(3).

11 Ie the rateable value shown for the day in the local non-domestic rating list under ibid s 42(4) (as amended) (see para 123 et seq post) as regards the hereditament: see s 44(1), (2) (s 44(2) amended by the Local Government and Housing Act 1989 s 194(4), Sch 5 paras 1, 21, 79(3), Sch 12 Pt II).

12 See the Local Government Finance Act 1988 s 44(1), (4). The non-domestic rating multiplier is a uniform amount applying to every billing authority area and is fixed annually by the Secretary of State using the method set out in s 56(2), Sch 7 (as amended): see para 86 note 6 post.

Where the billing authority is a special authority, the figure used for the non-domestic rating multiplier is the authority's non-domestic rating multiplier for the financial year: see s 44(1), (5) (amended by the Local Government Finance Act 1992 s 117(1), Sch 13 para 61).

13 See the Local Government Finance Act 1988 s 44(1), (6).

14 Ibid s 43(6A) (added by the Local Government and Rating Act 1997 s 1, Sch 1 para 2(b); amended by the Rating (Former Agricultural Premises and Rural Shops) Act 2001 s 1(1), (2)). This modification has the effect of reducing by 50% the chargeable amount which applies generally to the non-domestic rate for occupied hereditaments in the local non-domestic rating lists (as to which see para 60 ante). However, the Local Government Finance Act 1988 s 43(6A) (as added and amended) does not have effect in relation to a hereditament to which s 43(6F) (prospectively added) applies (see heads (1) and (2) in the text) on a chargeable day on which s 56, Sch 6 para 2A (as added) (see para 97 post) applies in relation to the hereditament: s 43(6I) (as so added).

In relation to any hereditament in respect of which both s 43(4A) (as added) (mandatory small business rate relief) (see para 70 et seq ante) and s 43(6A) (as added and amended), but not s 43(5) (charities etc) (see para 73 ante), have effect on the day concerned, the chargeable amount, in relation to England, is to be calculated in accordance with s 43(6A) (as added and amended) (and, in relation to Wales, is to be calculated in accordance with whichever of s 43(4A) (as added) and s 43(6A) (as added and amended) produces the smaller amount): s 43(8A) (added by the Rating (Former Agricultural Premises and Rural Shops) Act 2001 s 1(1), (4); substituted by the Local Government Act 2003 s 61(1), (4)). It is submitted that the reference to Wales only has effect in respect of hereditaments which occupy land in both England and Wales. In relation to any hereditament in respect of which the Local Government Finance Act 1988 s 43(4A) (as added), s 43(5) and s 43(6A) (as added and amended) each have effect on the day concerned, or in respect of which s 43(5) and s 43(6A) (as added and amended) both have effect on that day, the chargeable amount is to be calculated in accordance with s 43(5): s 43(8B) (added by the Local Government Act 2003 s 61(1), (4)).

15 Local Government Finance Act 1988 s 43(7) (amended by the Local Government Finance Act 1992 Sch 13 para 60). The liability to pay any such amount is discharged by making a payment or payments in accordance with regulations made under the Local Government Finance Act 1988 s 62, Sch 9 (as amended) (see para 141 et seq post): s 43(8). As to the regulations so made see the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058 (amended by the Statute Law (Repeals) Act 1995; SI 1990/145; SI 1991/141; SI 1991/1127; SI 1992/474; SI 1992/1512; SI 1993/616; SI 1993/774; SI 1993/1493; SI 1996/675; SI 1996/1880; SI 1998/3089; SI 2005/617; in relation to England only by SI 2000/2026; SI 2001/362; SI 2003/2210; SI 2003/2604; SI 2003/3052; SI 2006/237; SI 2006/3395; SI 2007/501; in relation to Wales only by SI 2001/1076; SI 2003/1714; SI 2004/1013) (see paras 170, 175 et seq post). As to the making of regulations under the Local Government Finance Act 1988 generally see para 3 ante.

B. MANDATORY RELIEF FOR UNOCCUPIED HEREDITAMENTS

78. Zero-rating for charities and community amateur sports clubs. Where a ratepayer[1] is liable to pay a non-domestic rate as regards an unoccupied hereditament[2], the chargeable amount[3] for a chargeable day[4] is zero[5] where: (1) the ratepayer is a charity[6] or trustees for a charity[7], and it appears that when next in use the hereditament will be wholly or mainly used for charitable purposes[8] (whether of that charity or of that and other charities)[9]; or (2) the ratepayer is a registered community amateur sports club[10], and it appears that when the hereditament is next in use[11]: (a) it will be wholly or mainly used for the purposes of that club and that club will be such a registered club[12]; or (b) it will be wholly or mainly used for the purposes of two or more clubs including that club, and each of those clubs will be such a registered club[13].

1 Ie a person who is subject to a non-domestic rate as regards an unoccupied hereditament in a local rating list: see the Local Government Finance Act 1988 s 45(1) (as amended); and para 62 ante. For the meaning of 'hereditament' see para 33 et seq ante. As to local non-domestic rating lists see para 121 et seq post.

2 Ie where ibid s 45 (as amended) (see paras 62–63 ante) applies in relation to a hereditament: see s 45A(1) (as added: see note 5 infra).

3 For the usual purposes of ibid s 45 (as amended) (see paras 62–63 ante), the chargeable amount is calculated using the formula set out in s 45(4) (as substituted): see para 62 ante.

4 A chargeable day is one which falls within the financial year and in respect of which the conditions mentioned in ibid s 45(1) (as amended) (see para 62 ante) are fulfilled: s 45(3). For the purposes of the Local Government Finance Act 1988, chargeable financial years are financial years beginning in 1990 and subsequent years: s 145(1). For the meaning of 'financial year' for these purposes see para 1 note 1 ante.

Section 45A(2) (as added) (see head (1) in the text) and s 45A(3) (as added) (see head (2) in the text) applies on a particular day if (and only if) it applies immediately before the day ends: s 67(7) (amended by Rating (Empty Properties) Act 2007 s 2(1), Sch 1 para 5).

5 Local Government Finance Act 1988 s 45A(1) (s 45A added by the Rating (Empty Properties) Act 2007 s 1(2)).

6 For the meaning of 'charity' for these purposes see para 73 note 3 ante.

7 Local Government Finance Act 1988 s 45A(2)(a) (as added: see note 5 supra). See note 4 supra.

8 As to the meaning of 'wholly or mainly used for charitable purposes' see para 75 ante.

9 Local Government Finance Act 1988 s 45A(2)(b) (as added: see note 5 supra). See note 4 supra.

10 Ibid s 45A(3)(a) (as added: see note 5 supra). The text refers to a registered club for the purposes of the Finance Act 2002 s 58, Sch 18 (Sch 18 as amended) (relief for community amateur sports clubs) (see CAPITAL GAINS TAXATION vol 5(1) (2004 Reissue) para 291): see the Local Government Finance Act 1988 s 45A(3)(a) (as so added). See note 4 supra. The times at which a club is a registered club for the purposes of the Finance Act 2002 Sch 18 (as amended) are to be taken, where it is registered with retrospective effect, to have included those within the period beginning with the date with effect from which it is registered and ending with its registration: Local Government Finance Act 1988 s 67(10A)(a) (s 67(10A) added by the Local Government Act 2003 s 64(5)). However, the times at which a club is such a registered club are to be taken, where its registration is terminated with retrospective effect, not to have included those within the period beginning with the date with effect from which its registration is terminated and ending with the termination of its registration: Local Government Finance Act 1988 s 67(10A)(b) (as so added).

11 Ibid s 45A(3)(b) (as added: see note 5 supra). See note 4 supra.

12 Ibid s 45A(3)(b)(i) (as added: see note 5 supra). See note 4 supra.

13 Ibid s 45A(3)(b)(ii) (as added: see note 5 supra). See note 4 supra.

79. Chargeable amount for unoccupied properties may be reduced by order. An order[1] may provide that the chargeable amount for each chargeable day[2] that a ratepayer[3] is liable to pay as regards an unoccupied hereditament is to be calculated by: (1) multiplying the rateable value[4] by the non-domestic rating multiplier for the financial year[5]; (2) multiplying the number of days in the financial year[6] by such number (greater than one but not greater than two) as may be prescribed[7]; and (3) dividing the product found under head (1) above by the product found under head (2) above[8].

1 An order under the Local Government Finance Act 1988 s 45(4A) (as added) may be made, in relation to England, by the Secretary of State and, in relation to Wales, by the Welsh Ministers: s 45(4B) (s 45(4A), (4B) added by the Rating (Empty Properties) Act 2007 s 1(1)). The power to make an order under the Local Government Finance Act 1988 s 45(4A) (as added) is exercisable by statutory instrument, but no such order is to be made, in the case of an order relating to England, unless a draft of the order has been laid before and approved by resolution of each House of Parliament or, in the case of an order relating to Wales, unless a draft of the order has been laid before and approved by resolution of the National Assembly for Wales: s 143(3B) (added by the Rating (Empty Properties) Act 2007 s 1(3)). However, at the date at which this volume states the law, no such order had been made. For the meanings of 'England' and 'Wales' see para 1 note 2 ante. As to the Secretary of State and the Welsh Ministers and as to the making of orders under the Local Government Finance Act 1988 generally see para 3 ante.

2 A chargeable day is one which falls within the financial year and in respect of which the conditions mentioned in the Local Government Finance Act 1988 s 45(1) (as amended) (see para 62 ante) are fulfilled: s 45(3). For the purposes of the Local Government Finance Act 1988, chargeable financial years are financial years beginning in 1990 and subsequent years: s 145(1). For the meaning of 'financial year' for these purposes see para 1 note 1 ante.

3 Ie a person who is subject to a non-domestic rate as regards an unoccupied hereditament in a local rating list: see ibid s 45(1) (as amended); and para 62 ante. For the meaning of 'hereditament' see para 33 et seq ante. As to local non-domestic rating lists see para 121 et seq post.

4 Ie the rateable value shown for the day in the local non-domestic rating list under ibid s 42(4) (as amended) (see para 123 et seq post) as regards the hereditament: see s 46(1), (2) (s 46(2) amended by the Local Government and Housing Act 1989 s 194(4), Sch 5 paras 1, 21, 79(3), Sch 12 Pt II).

5 See the Local Government Finance Act 1988 s 46(1), (3). The non-domestic rating multiplier is a uniform amount applying to every billing authority area and is fixed annually by the Secretary of State using the method set out in s 56(2), Sch 7 (as amended): see para 86 note 6 post.

Where the billing authority is a special authority, the figure used for the non-domestic rating multiplier is the authority's non-domestic rating multiplier for the financial year: see s 46(1), (4) (amended by the Local Government Finance Act 1992 s 117(1), Sch 13 para 64). As to billing authorities see para 5 ante; and as to special authorities and the non-domestic rating multiplier see para 60 note 10 ante.

6 See the Local Government Finance Act 1988 s 46(1), (5).

7 Ibid s 45(4A) (as added: see note 1 supra). 'Prescribed' in the context of an order, means prescribed by the order: s 146(6). See note 1 supra. The number so prescribed will control the amount of the reduction (not greater than 50 per cent) that is to be applied by order.

8 Ibid s 45(4A) (as added: see note 1 supra). The formula set out in s 45(4A) (as added) supplants that used in s 45(4) (as substituted) (see para 62 ante) where an order under s 45(4A) (as added) so provides: see s 45(4A) (as so added).

C. DISCRETIONARY RELIEF

80. Scope of discretionary relief. Except where an unoccupied hereditament[1] is zero-rated[2], discretionary relief for the amount payable as regards hereditaments in the local rating list[3] depends on the fulfilment of a combination of the following conditions, namely: (1) the status of the hereditament on the chargeable day (the 'first condition')[4]; (2) whether a billing authority[5] decides to apply the discretionary relief provisions[6] as regards the hereditament concerned (the 'second condition')[7]; (3) whether the relief scheme for rural settlements applies (the 'rural settlement condition')[8]; (4) whether the relief scheme for former agricultural land or buildings applies (the 'condition relating to relief for former agricultural premises')[9]; and (5) whether the relief scheme for small businesses applies (the 'small business condition')[10]. For the purposes of head (1) above, the 'first condition' is that one or more of the following applies on the chargeable day[11]:

(a) the ratepayer is a charity[12] or trustees for a charity, and the hereditament is wholly or mainly used for charitable purposes[13] (whether of that charity or of that and other charities)[14];

(b) the hereditament is not an excepted hereditament[15], and all or part of it is occupied[16] for the purposes of[17] one or more institutions or other organisations[18] none of which is established or conducted for profit[19] and each of whose main objects[20] are charitable or are otherwise philanthropic or religious[21] or concerned with[22] education[23], social welfare[24], science, literature or the fine arts[25];

(c) the ratepayer is a registered community amateur sports club[26], and the hereditament is not an excepted hereditament and is wholly or mainly used either for the purposes of that club, or for the purposes of that club and of other such registered clubs[27];

(d) the hereditament is not an excepted hereditament, it is wholly or mainly used for purposes of recreation[28], and all or part of it is occupied for the purposes of a club, society or other organisation not established or conducted for profit[29].

Where the second condition as mentioned in head (2) above is fulfilled, together with any of the following conditions, for a day which is a chargeable day[30], namely:

(i) the first condition as mentioned in head (1) above[31]; or

(ii) the rural settlement condition as mentioned in head (3) above[32]; or

(iii) the condition relating to relief for former agricultural premises as mentioned in head (4) above[33]; or

(iv) the small business condition as mentioned in head (5) above[34],

the chargeable amount for the day is such as is determined by (or found in accordance with rules determined by) the billing authority concerned[35]. Consequently, certain provisions[36] do not apply as regards the day[37].

1 For the meaning of 'hereditament' see para 33 et seq ante. As to occupation see para 12 et seq ante.

2 Local Government Finance Act 1988 s 47(10) (added by the Rating (Empty Properties) Act 2007 s 2(1), Sch 1 para 2(1), (3)). The text refers to an unoccupied hereditament which is zero-rated under the Local Government Finance Act 1988 s 45A (as added) (see para 78 ante): see s 47(10) (as so added).

3 As to local non-domestic rating lists see para 121 et seq post.

4 See the Local Government Finance Act 1988 s 47(2) (as amended); and heads (a) to (d) in the text.

5 As to billing authorities see para 5 ante.

6 Ie the Local Government Finance Act 1988 s 47 (as amended) (see the text and notes 7–37 infra).

7 The 'second condition' referred to in head (2) in the text is that, during a period which consists of or includes the chargeable day, a decision of the billing authority concerned operates to the effect that ibid s 47 (as amended) applies as regards the hereditament concerned: s 47(3) (amended by the Local Government Finance Act 1992 s 117(1), Sch 13 para 65). As to decisions which so operate see further para 81 post.

8 The rural settlement condition is that:

(1) the hereditament is situated in England (Local Government Finance Act 1988 s 47(3A)(aa) (s 47(3A), (3B) added by the Local Government and Rating Act 1997 s 1, Sch 1 para 3(b); the Local Government Finance Act 1988 s 47(3A)(aa) added by the Local Government Act 2003 s 63(3)));

(2) on the chargeable day the hereditament is within a settlement identified in the billing authority's rural settlement list for the chargeable financial year in which that day falls (Local Government Finance Act 1988 s 47(3A)(a) (as so added)); and

(3) the rateable value of the hereditament shown in the local non-domestic rating list at the beginning of the chargeable financial year is not more than any amount prescribed by the Secretary of State by order (s 47(3A)(b) (as so added)).

For the meaning of 'England' see para 1 note 2 ante. For the purposes of the Local Government Finance Act 1988, chargeable financial years are financial years beginning in 1990 and subsequent years: s 145(1). For the meaning of 'financial year' for these purposes see para 1 note 1 ante. As to the rural settlement lists see para 124 post. Further to head (3) supra, 'prescribed' in the context of an order, means prescribed by the order: s 146(6). Accordingly, in relation to hereditaments shown in local non-domestic rating lists for billing authorities in England, £14,000 is the amount prescribed as the maximum amount of rateable value for the purposes of s 47(3A)(b) (as added) (discretionary relief in rural areas): Non-Domestic Rating (Rural Settlements) (England) Order 1997, SI 1997/2792, art 3(2), (3) (art 3(2) amended by SI 2004/3153). As to the Secretary of State and as to the making of orders under the Local Government Finance Act 1988 generally see para 3 ante.

However, where the Local Government Finance Act 1988 s 43(6B)(c) (as added and amended) (see para 76 ante) does not apply, the billing authority is not, by virtue of s 47(3A) (as added and amended), to make such a decision as is referred to in s 47(3) (as amended) (see note 7 supra) unless it is satisfied that: (a) the hereditament is used for purposes which are of benefit to the local community (s 47(3B)(a) (as so added)); and (b) it would be reasonable for the billing authority to make such a decision, having regard to the interests of persons liable to pay council tax set by it (s 47(3B)(b) (as so added)). See note 16 infra. As to council tax see para 227 et seq post.

9 The condition relating to relief for former agricultural premises is that, on the chargeable day, ibid s 43(6F) (as added) (see para 77 ante) applies to the hereditament: s 47(3C) (added by the Rating (Former Agricultural Premises and Rural Shops) Act 2001 s 2(1), (3)). The Local Government Finance Act 1988 s 47(3C) is added by the Rating (Former Agricultural Premises and Rural Shops) Act 2001 s 2(1), (3) as from a day to be appointed under s 6(2). In relation to England, 15 August 2001 was appointed as the day: see the Rating (Former Agricultural Premises and Rural Shops) Act 2001 (Commencement No 1) Order 2001, SI 2001/2580, art 2. However, at the date at which this volume states the law, no such day had been appointed in relation to Wales. As to the effect of these provisions see further para 77 note 1 ante. For the meaning of 'Wales' see para 1 note 2 ante.

10 The small business condition is that the hereditament is situated in Wales, and that, on the chargeable day, the Local Government Finance Act 1988 s 43(4B) (as added) (see para 70 ante) applies to the hereditament: s 47(3D) (added by the Local Government Act 2003 s 61(7)).

11 Local Government Finance Act 1988 s 47(2). Section 47(2) (as amended) (see heads (a) to (d) in the text) applies on a particular day if (and only if) it applies immediately before the day ends: s 67(7) (amended by Rating (Empty Properties) Act 2007 Sch 1 para 5).

12 For the meaning of 'charity' for these purposes see para 73 note 3 ante.

13 As to the meaning of 'wholly or mainly used for charitable purposes' see para 75 ante.

14 Local Government Finance Act 1988 s 47(2)(a). See note 11 supra.

15 A hereditament is an excepted hereditament if all or part of it is occupied (otherwise than as trustee) by: (1) a billing authority; (2) a precepting authority, other than the Receiver for the Metropolitan Police District or charter trustees; or (3) a functional body, within the meaning of the Greater London Authority Act 1999 (see LONDON GOVERNMENT vol 29(2) (Reissue) para 213 et seq): Local Government Finance Act 1988 s 47(9) (amended by the Local Government Finance Act 1992 Sch 13 para 65; and the Greater London Authority Act 1999 s 138). As from a day to be appointed under the Greater London Authority Act 1999 s 425(2), the words 'the Receiver for the Metropolitan Police District or' in head (2) supra are repealed by s 423, Sch 34 Pt I. However, at the date at which this volume states the law, no such day had been appointed. As to precepting authorities see para 1 ante.

A hereditament which is wholly unoccupied is to be treated as an excepted hereditament if it appears that when any of it is next occupied the hereditament will be an excepted hereditament: Local Government Finance Act 1988 s 48(1) (as amended: see note 16 infra), s 48(4).

16 Except for the purposes of ibid s 47(3B)(a) (as added) (see note 8 supra), if a hereditament is wholly unoccupied but it appears that it or any part of it when next occupied will be occupied for particular purposes, the hereditament or part concerned (as the case may be) is to be treated as occupied for these purposes: s 48(1), (5) (s 48(1) amended by the Local Government and Rating Act 1997 Sch 1 para 4).

17 The phrase 'occupied for the purposes of' is not to be read as 'occupied exclusively for the purposes of': *Royal London Mutual Insurance Society Ltd v Hendon Corpn* (1958) 3 RRC 76.

Some of the cases cited in this paragraph were decided prior to the coming into force of the Local Government Finance Act 1988 and, therefore, must now be considered in relation to the non-domestic rating provisions in Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 81 et seq post). As to the historical development of rating law and the continuing relevance of the old case law to the current statutory regime see para 2 ante.

18 On similar wording in the Rating and Valuation (Miscellaneous Provisions) Act 1955 s 8 (repealed), it was held to be not always right to take the occupier and treat him as the organisation: *Skegness UDC v Derbyshire Miners' Welfare Committee* [1959] AC 807 at 827, [1959] 2 All ER 258 at 265, HL, per Lord Denning; *Isaacs v Market Bosworth RDC* [1960] 1 All ER 433, [1960] 1 WLR 277 (trustees of trade union memorial home; organisation for whose purposes hereditament occupied was the trade union; hereditament not entitled to relief); cf *National Children's Home and Orphanage Registered Trustees v Penarth UDC* (1960) 53 R & IT 166 (trustees of approved school not occupying for purposes of Home Secretary; school entitled to relief); *Trustees of the Benevolent and Orphan Fund, National and Local Government Officers' Association v Bournemouth Corpn* (1957) 1 RRC 363 (quarter sessions).

19 The same words in the Rating and Valuation (Miscellaneous Provisions) Act 1955 s 8 (repealed) were held to mean not established or conducted for the purpose of making profit; accordingly a direction to the trustees of a charity to make investments in order to produce revenue and increase capital does not make the organisation one which is established or conducted for profit: *Guinness Trust (London Fund) Founded 1890, Registered 1902 v West Ham Corpn* [1959] 1 All ER 482, [1959] 1 WLR 233, CA. The financial gains made by a friendly society from investments do not make the society one which is established or conducted for profit: *Trustees of National Deposit Friendly Society v Skegness UDC* [1959] AC 293, [1958] 2 All ER 601, HL. A zoo held to be an educational charity is not conducted for profit merely because it makes a financial surplus on its operations: *North of England Zoological Society v Chester RDC* [1959] 3 All ER 116, [1959] 1 WLR 773, CA. See also *Working Men's Club and Institute Union Ltd v Swansea Corpn* [1959] 3 All ER 769, [1959] 1 WLR 1197, CA, where a society registered under what is now the Industrial and Provident Societies Act 1965 was held not to be established or conducted for profit. See also *Ladbroke Park Golf Club Ltd v Stratford-on-Avon RDC* (1957) 1 RRC 202; *Reinshaw Park Golf Club v Chesterfield RDC* (1957) 1 RRC 281; *Mid-Kent Golf Club Ltd v Gravesend Borough Council* (1957) 50 R & IT 613, where golf clubs were held, at quarter sessions, not to be established or conducted for profit merely because of incidental financial gains.

20 On the same words in the Rating and Valuation (Miscellaneous Provisions) Act 1955 (repealed), it was held that the main objects must be sought in the written constitution, if there is one: *Berry v St Marylebone Borough Council* [1958] Ch 406, [1957] 3 All ER 677, CA; *General Nursing Council for England and Wales v St Marylebone Borough Council* [1959] AC 540 at 559, [1959] 1 All ER 325 at 332, HL, per Lord Keith of Avonholm; *Victory (Ex-Services) Association Ltd v Paddington Borough Council* [1960] 1 All ER 498, [1960] 1 WLR 106, DC; *Royal College of Nursing v St Marylebone Corpn* [1959] 3 All ER 663, [1959] 1 WLR 1077, CA. The activities of the organisation may be relevant in determining which of the objects are the main objects (*Berry v St Marylebone Borough Council* supra; *Working Men's Club and Institute Union Ltd v Swansea Corpn* [1959] 3 All ER 769, [1959] 1 WLR 1197, CA; *Trustees of National Deposit Friendly Society v Skegness UDC* [1959] AC 293 at 320, [1958] 2 All ER 601 at 612, HL, per Lord Denning); or where there is ambiguity in the objects (*North of England Zoological Society v Chester RDC* [1959] 3 All ER 116, [1959] 1 WLR 773, CA; *Nottingham Mechanics Institution v City of Nottingham* (1958) 3 RRC 359; *English-Speaking Union v Westminster City Council* (1959) 4 RRC 97, DC).

21 The objects of theosophy were held not to be 'concerned with the advancement of religion' within the meaning of the Rating and Valuation (Miscellaneous Provisions) Act 1955 s 8 (repealed) (*Berry v St Marylebone Borough Council* [1958] Ch 406, [1957] 3 All ER 677, CA); and so were the objects of freemasonry (*United Grand Lodge of Ancient Free and Accepted Masons of England v Holborn Borough Council* [1957] 3 All ER 281, [1957] 1 WLR 1080, CA). See also *Trustees of National Deposit Friendly Society v Skegness UDC* [1959] AC 293 at 322, [1958] 2 All ER 601 at 614, HL, per Lord Denning.

22 On the words in the Rating and Valuation (Miscellaneous Provisions) Act 1955 s 8 (repealed) 'concerned with the advancement of religion, education or social welfare', it was held that the organisation must be substantially altruistic or benevolent in its purposes, although not necessarily in the limited sense applied to charities: *Trustees of National Deposit Friendly Society v Skegness UDC* [1959] AC 293, [1958] 2 All ER 601, HL; *Independent Order of Odd Fellows, Manchester Unity Friendly Society v Manchester Corpn* [1958] 3 All ER 378, [1958] 1 WLR 1171, CA; *Working Men's Club and Institute Union Ltd v Swansea Corpn* [1959] 3 All ER 769, [1959] 1 WLR 1197, CA. The crucial test was the purpose to which the money was devoted, not the motives of its donors: *Skegness UDC v Derbyshire Miners' Welfare Committee* [1959] AC 807 at 824, [1959] 2 All ER 258 at 263, HL, per Viscount Simonds; explained in *Waterson v Hendon Borough Council* [1959] 2 All ER 760, [1959] 1 WLR 985. The size of the class of persons to be benefited was irrelevant: *Skegness UDC v Derbyshire Miners' Welfare Committee* supra.

23 The main objects of the Chartered Insurance Institute are not the advancement of education but the benefit of the profession of insurance generally: *Chartered Insurance Institute v London Corpn* [1957] 2 All ER 638, [1957] 1 WLR 867, DC. The main objects of the English-Speaking Union are not concerned with the advancement of education (*English-Speaking Union v Westminster City Council* (1959) 4 RRC 97); nor are those of the Theosophical Society (*Berry v St Marylebone Borough Council* [1958] Ch 406, [1957] 3 All ER 677, CA). See *Trustees of National Deposit Friendly Society v Skegness UDC* [1959] AC 293 at 322, [1958] 2 All ER 601 at 613, HL, per Lord Denning. At quarter sessions, the Oxford Union Society (*Oxford Union Society v City of Oxford* (1957) 2 RRC 54) and two dramatic societies (*Newport Playgoers' Society v Newport County Borough Council* (1957) 1 RRC 279; *Trustees of Stoke-on-Trent Repertory Players v Stoke-on-Trent Corpn* (1957) 1 RRC 353) have been held to be concerned with the advancement of education.

24 It has been said that 'social welfare' is not the same as 'social well-being', but savours more of those needs of the community which, as a matter of social ethics, ought to be met in the attainment of some acceptable standard: *National Deposit Friendly Society v Skegness UDC* [1959] AC 293 at 314, [1958] 2 All ER 601 at 609, HL, per Lord MacDermott. The needs which are met need not be financial: *Victory (Ex-Services) Association Ltd v Paddington Borough Council* [1960] 1 All ER 498, [1960] 1 WLR 106, DC, where it was held that to promote comradeship between and improve the conditions and welfare of all ranks past and present advanced social welfare. Public benefit alone is not the test of social welfare (*General Nursing Council for England and Wales v St Marylebone Borough Council* [1959] AC 540, [1959] 1 All ER 325, HL); and 'social welfare' is a narrower phrase than 'social improvement' (*Nottingham Mechanics Institution v City of Nottingham* (1958) 3 RRC 359). An organisation which provides benefits only for its members is not concerned with the advancement of social welfare: *Working Men's Club and Institute Union Ltd v Swansea Corpn* [1959] 3 All ER 769, [1959] 1 WLR 1197, CA; *Waterson v Hendon Borough Council* [1959] 2 All ER 760, [1959] 1 WLR 985. A holiday camp run by a miners' welfare committee has been held to be concerned with the advancement of 'social welfare': *Skegness UDC v Derbyshire Miners' Welfare Committee* [1959] AC 807, [1959] 2 All ER 258, HL. See also *Independent Order of Odd Fellows, Manchester Unity Friendly Society v Manchester Corpn* [1958] 3 All ER 378, [1958] 1 WLR 1171, CA; *Berry v St Marylebone Borough Council* [1958] Ch 406, [1957] 3 All ER 677, CA; and, at quarter sessions, *Trustees of West Ham Boys' and Amateur Boxing Club v West Ham County Borough Council* (1957) 2 RRC 44; *Trustees of Fegg Hayes Welfare Club and Institute v Stoke-on-Trent Corpn* (1957) 1 RRC 353; *Trustees of Wearmouth Colliery Welfare Fund v Sunderland County Borough Council* (1956) 1 RRC 272; *Wearmouth Colliery Cricket Club v Sunderland County Borough Council* (1956) 1 RRC 277.

25 Local Government Finance Act 1988 s 47(2)(b). See note 11 supra.

Societies which were instituted for the purpose of science, literature or the fine arts exclusively were at one stage exempted from rates, provided that certain other conditions were fulfilled, by the Scientific Societies Act 1843 s 1 (repealed). Many decisions were made as to societies which were to be treated as exempt, and as to others which were so instituted but were not exempt because a condition of exemption was not satisfied; some societies were held not to be exclusively instituted for the requisite purposes but might now qualify for discretionary relief on the ground that their main objects are concerned with science, literature or the fine arts. 'Science' has been held to include applied science: *R v Royal Medical and Chirurgical Society of London* (1857) 21 JP 789 at 791. The fine arts must be distinguished from the arts: *R v Institution of Civil Engineers* (1879) 5 QBD 48 at 52, DC. Music is one of the fine arts (*Royal College of Music v Westminster Vestry* [1898] 1 QB 809, CA), and drama and acting may be (*Nonentities Society v Linley (Valuation Officer) and Kidderminster Borough Council* (1954) 47 R & IT 426, CA), but folk dancing is not (*O'Sullivan (Valuation Officer) v English Folk Dance and Song Society* [1955] 2 All ER 845, [1955] 1 WLR 907, CA).

26 Ie a registered club for the purposes of the Finance Act 2002 s 58, Sch 18 (Sch 18 as amended) (relief for community amateur sports clubs) (see CAPITAL GAINS TAXATION vol 5(1) (2004 Reissue) para 291): see the Local Government Finance Act 1988 s 47(2)(ba) (as added: see note 27 infra). The times at which a club is a registered club for the purposes of the Finance Act 2002 Sch 18 (as amended) are to be taken, where it is registered with retrospective effect, to have included those within the period beginning with the date with effect from which it is registered and ending with its registration: Local Government Finance Act 1988 s 67(10A)(a) (s 67(10A) added by the Local Government Act 2003 s 64(5)). However, the times at which a club is such a registered club are to be taken, where its registration is terminated with retrospective effect, not to have included those within the period beginning with the date with effect from which its registration is terminated and ending with the termination of its registration: Local Government Finance Act 1988 s 67(10A)(b) (as so added).

27 Ibid s 47(2)(ba) (added by the Local Government Act 2003 s 64(3)). See note 11 supra.

28 A hereditament not in use is to be treated as wholly or mainly used for the purposes of recreation if it appears that when next in use it will be wholly or mainly used for such purposes: Local Government Finance Act 1988 s 48(1) (as amended: see note 16 supra), s 48(3).

29 Ibid s 47(2)(c). See note 11 supra.

30 See ibid s 47(1) (amended by the Local Government and Rating Act 1997 Sch 1 para 3(a); the Rating (Former Agricultural Premises and Rural Shops) Act 2001 s 2(1), (2); and the Local Government Act 2003 s 61(6)). The chargeable day referred to in the text is the chargeable day within the meaning of the Local Government Finance Act 1988 s 43 (as amended) (occupied hereditaments) (see paras 60, 70 et seq ante) or s 45 (as amended) (unoccupied hereditaments) (see paras 62–63, 78–79 ante), as the case may be: see s 47(1) (as so amended).

31 See ibid s 47(1) (as amended: see note 30 supra).

32 See ibid s 47(1) (as amended: see note 30 supra).

33 See ibid s 47(1) (as amended: see note 30 supra).

34 See ibid s 47(1) (as amended: see note 30 supra).

35 Ibid s 47(1)(a) (amended by the Local Government Finance Act 1992 Sch 13 para 65(1)). As to the grant of the relief see para 81 post.

36 Ie the Local Government Finance Act 1988 s 43(4)–(6B) (as amended) (see paras 60, 73, 76 ante), s 44 (as amended) (see para 60 ante), s 45(4) (as substituted) (see para 62 ante), s 45(4A)–(4B) (as added) (see para 79 ante), s 46 (as amended) (see para 62 ante), regulations under s 57A (as added and amended) (see para 84 post) or s 58 (as amended) (see para 85 post) or any provision of or made under s 57 (as substituted), Sch 7A (as added and amended) (see para 83 post), as the case may be: see s 47(1)(b) (as amended: see note 37 infra).

37 Ibid s 47(1)(b) (amended by the Local Government and Housing Act 1989 s 139, Sch 5 paras 26, 79(3); the Local Government and Rating Act 1997 Sch 1 para 3(a); the Local Government Act 2003 s 127(1), Sch 7 paras 9(1), 10; and the Rating (Empty Properties) Act 2007 Sch 1 para 2(1), (2)).

81. Grant of the relief. Discretionary relief for the amount payable as regards hereditaments[1] in the local rating list[2] is not available on any day unless a decision of the billing authority[3] concerned operates to the effect that the provisions for discretionary relief[4] apply as regards the hereditament concerned[5]. Such a decision is invalid if made more than six months after the end of the financial year in which the day falls[6]; and such a decision may be revoked by a further decision of the authority[7]. The quantum of the relief given may either be determined by the billing authority or be determined in accordance with rules set by it[8]. The determination must be such that the chargeable amount for the day is less than would otherwise be chargeable[9] and may be nil[10]. It may be varied by a further determination of the authority[11].

The Secretary of State (or the Welsh Ministers, as the case may be)[12] may make regulations[13] containing provision: (1) requiring notice to be given of any determination or decision[14]; (2) limiting the power to revoke a decision or vary a determination[15]; (3) as to other incidental matters[16]. Accordingly, the billing authority making a decision or making or varying a determination must give notice in writing to the ratepayer or ratepayers concerned stating[17]: (a) in the case of the making of a decision, the first day with respect to which the decision operates and (if the decision is expressed to operate by reference to a particular period) the last day with respect to which it operates[18]; (b) in the case of the making or variation of a determination, the chargeable amount or the rules in accordance with which that amount is to be found (as the case may be) as so

made or varied[19]. The billing authority revoking a decision must give notice in writing to the ratepayer or ratepayers concerned stating the day on which the revocation has effect[20]. Notice of the making of a decision or determination, or of the variation of a determination which is not a relevant variation, is to be given as soon as practicable after the decision or determination is made or varied[21].

1 For the meaning of 'hereditament' see para 33 et seq ante.
2 As to the scope of discretionary relief see para 80 ante. As to local non-domestic rating lists see para 121 et seq post.
3 As to billing authorities see para 5 ante.
4 Ie the Local Government Finance Act 1988 s 47 (as amended) (see para 80 ante).
5 See ibid s 47(3) (as amended); and para 80 ante.
6 Ibid s 47(7) (amended by the Local Government and Rating Act 1997 s 33(1), Sch 3 para 23). For the meaning of 'financial year' for these purposes see para 1 note 1 ante.
7 Local Government Finance Act 1988 s 47(6).
8 See ibid s 47(1)(a) (as amended); and para 80 ante.
9 Ibid s 47(4)(a). In deciding what the chargeable amount for the day would be apart from s 47 (as amended), the effect of any regulations under s 57A (as added and amended) (see para 84 post) or s 58 (as amended) (see para 85 post) and the effect of any provision of (or made under) s 57 (as substituted), Sch 7A (as added and amended) (see para 83 post) must be taken into account but anything which has been done or could be done under s 49 (as amended) (see para 82 post) must be ignored: s 47(5) (amended by the Local Government and Housing Act 1989 s 139, Sch 5 paras 26, 79(3); and the Local Government Act 2003 s 127(1), Sch 7 paras 9(1), 10).
10 Local Government Finance Act 1988 s 47(4)(b).
11 Ibid s 47(4)(c).
12 As to the Secretary of State and the Welsh Ministers see para 3 ante.
13 As to the making of regulations under the Local Government Finance Act 1988 generally see para 3 ante. As to the regulations so made see the Non-Domestic Rating (Discretionary Relief) Regulations 1989, SI 1989/1059 (as amended); and the text and notes 15, 17–21 infra.
14 Local Government Finance Act 1988 s 47(8)(a).
15 Ibid s 47(8)(b). According to the Non-Domestic Rating (Discretionary Relief) Regulations 1989, SI 1989/1059 (as amended) (as to which see note 13 supra), a decision under the Local Government Finance Act 1988 s 47(3) (as amended) (see para 80 ante) may be revoked and a relevant variation of a determination under s 47(1)(a) (as amended) (see para 80 ante) can only be made so that it takes effect at the expiry of a financial year and so that at least one year's notice of the revocation or variation is given under the Non-Domestic Rating (Discretionary Relief) Regulations 1989, SI 1989/1059, reg 2(1) (as amended) (see the text and notes 17–19 infra) or reg 2(2) (as amended) (see the text and note 20 infra), as the case may be: see regs 1(2), 2(3). However, reg 2(3) does not apply in relation to Wales where the billing authority revokes a decision or makes a relevant variation of a determination as a consequence only of the commencement of the Local Government Act 2003 s 63 (amending the Local Government Finance Act 1988 s 42A (as added and amended) (see para 124 post), s 43 (as amended) (see paras 60, 70 et seq ante) and s 47 (as amended) (see para 80 ante)): Non-Domestic Rating (Discretionary Relief) Regulations 1989, SI 1989/1059, reg 2(6) (added, in relation to Wales, by SI 2006/3392). A variation of a determination is a relevant variation for these purposes if it increases the chargeable amount for any day: Non-Domestic Rating (Discretionary Relief) Regulations 1989, SI 1989/1059, reg 2(5).
16 Local Government Finance Act 1988 s 47(8)(c).
17 Non-Domestic Rating (Discretionary Relief) Regulations 1989, SI 1989/1059, reg 2(1) (reg 2(1), (2) amended by SI 1993/616). See note 15 supra.
18 Non-Domestic Rating (Discretionary Relief) Regulations 1989, SI 1989/1059, reg 2(1)(a). See note 15 supra.
19 Ibid reg 2(1)(b). See note 15 supra.
20 Ibid reg 2(2) (as amended: see note 17 supra). See note 15 supra.
21 Ibid reg 2(4). As to what constitutes a relevant variation for these purposes see note 15 supra.

(iv) Reduction for Hardship

82. Reduction or remission in the case of hardship. A billing authority[1] may reduce any amount which a person is otherwise liable to pay to it[2] as regards hereditaments[3] in the local non-domestic rating list[4] or it may remit payment of the whole of any amount a person would otherwise be liable to so pay[5]. However, a billing

authority may not so act unless it is satisfied that: (1) the ratepayer would sustain hardship[6] if the authority did not do so[7]; and (2) it is reasonable for the authority to do so having regard to the interests of persons liable to pay council tax set by it[8].

1 As to billing authorities see para 5 ante.
2 Ie under the Local Government Finance Act 1988 s 43 (as amended) (occupied hereditaments) (see paras 60, 70 et seq ante) or s 45 (as amended) (unoccupied hereditaments) (see paras 62–63, 78–79 ante): see s 49(1) (as amended: see note 5 infra). Where an authority acts under s 49 (as amended), then s 43 (as amended) or s 45 (as amended) are to be construed accordingly as regards the case concerned: s 49(4).
3 For the meaning of 'hereditament' see para 33 et seq ante.
4 As to local non-domestic rating lists see para 121 et seq post.
5 Local Government Finance Act 1988 s 49(1) (s 49(1), (2)(b) amended by the Local Government Finance Act 1992 s 117(1), Sch 13 para 66). The amount as regards which a reduction or remittance may be made under the Local Government Finance Act 1988 s 49(1) (as amended) is the amount the person would be liable to pay, apart from s 49 (as amended), taking account of anything done under s 47 (as amended) (see paras 80–81 ante), the effect of any regulations under s 57A (as added and amended) (see para 84 post) or s 58 (as amended) (see para 85 post) and the effect of any provision of (or made under) s 57 (as substituted), Sch 7A (as added and amended) (see para 83 post): s 49(3) (amended by the Local Government and Housing Act 1989 s 139, Sch 5 paras 27, 79(3); and the Local Government Act 2003 s 127(1), Sch 7 paras 9(1), 11).
6 The meaning of 'hardship' for these purposes was discussed by the Court of Appeal in *R v Liverpool City Council, ex p Windsor Securities Ltd* (1978) 77 LGR 502, [1979] RA 159, CA ('hardship' is a matter of degree and the question whether payment would cause hardship to the applicant has to be resolved in the light of commonsense having regard to all the circumstances). This case was decided prior to the coming into force of the Local Government Finance Act 1988 and, therefore, must now be considered in relation to the non-domestic rating provisions in Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 83 et seq post). As to the historical development of rating law and the continuing relevance of the old case law to the current statutory regime see para 2 ante.
7 Ibid s 49(2)(a).
8 Ibid s 49(2)(b) (as amended: see note 5 supra). As to council tax see para 227 et seq post.

(v) Transitional Relief Schemes

83. Transitional provisions for the 1990 and 1995 lists. A large number of hereditaments[1] experienced considerable change in their rates burden on revaluation in 1990[2]. The impact of that change, whether increase or (until 1 April 1993) reduction[3], was limited in most cases by transitional arrangements[4] for the period (the 'transitional period') consisting of the financial years beginning in 1990, 1991, 1992, 1993 and 1994[5].

On revaluations for the 1995 list, a transitional relief scheme was again used to protect ratepayers from large changes in their rates liability (both increases and reductions) and this scheme applied for the financial years beginning in 1995, 1996, 1997, 1998 and 1999[6]. Provision for such relief is now made separately in relation to England and Wales respectively[7].

1 For the meaning of 'hereditament' see para 33 et seq ante.
2 As to valuation for rating generally see para 86 et seq post. As to the historical development of rating law see para 2 ante.
3 The effect of the Non-Domestic Rating Act 1992 s 3(3) was to terminate the transitional provisions concerning hereditaments in respect of which the revaluation had brought a reduction in rates liability with effect from 1 April 1993, so that thereafter the ratepayer received the full benefit of the reduction.
4 As to the transitional arrangements see the Local Government Finance Act 1988 s 57 (substituted by the Local Government and Housing Act 1989 s 139, Sch 5 paras 31, 79(3)), Local Government Finance Act 1988 Sch 7A (added by the Local Government and Housing Act 1989 Sch 5 paras 40, 79(3); the Local Government Finance Act 1988 Sch 7A para 5 amended by the Non-Domestic Rating Act 1992 ss 2(1), 3(3), 8; and the Non-Domestic Rating Act 1994 s 1(2)); the Non-Domestic Rating (Transitional Period) (Appropriate Fraction) Order 1989, SI 1989/2476 (amended by the Non-Domestic Rating Act 1992 s 3(1); and SI 1991/2924); the Non-Domestic Rating (Transitional Period) Regulations 1990, SI 1990/608 (amended by SI 1990/2329; SI 1992/1514; SI 1993/616; in relation to England only by SI 2003/2000); the Non-Domestic Rating (Transitional Period) (Amendment and Further Provision)

Regulations 1990, SI 1990/2329 (amended by the Non-Domestic Rating Act 1992 s 2(2); and the Non-Domestic Rating Act 1994 s 1(3)); the Non-Domestic Rating (Transitional Period) (Further Provision) Regulations 1992, 1992/559; the Non-Domestic Rating (Transitional Period) (Amendment) Regulations 1992, SI 1992/1514; and the Local Government Finance (Repeals, Savings and Consequential Amendments) Order 1993, SI 1993/616. For a case concerning the operation of this scheme see *R v Huelin (Valuation Officer), ex p Murphy Ltd, R v Hodgetts (Valuation Officer) ex p Nationwide Building Society* [2001] RA 30, [1999] EGCS 131, CA.

5 See the Local Government Finance Act 1988 Sch 7A para 1(1) (as added: see note 4 supra). For these purposes, a transitional day was a day falling in the transitional period: see Sch 7A para 1(2) (as added).

6 See the Non-Domestic Rating (Chargeable Amounts) Regulations 1994, SI 1994/3279 (now spent).

7 As to transitional provision made in relation to England from the year 2000 onwards see para 84 post; and in relation to Wales see para 85 post. For the meanings of 'England' and 'Wales' see para 1 note 2 ante.

84. Power to make special provision for England: lists for 2000 and 2005 and for later years. In relation to any relevant period[1], the Secretary of State[2] must make regulations in relation to the chargeable amounts[3] which apply only in relation to England[4]. In relation to any case where:

(1) as regards a hereditament[5] or hereditaments, the chargeable amount for a chargeable day falls to be determined under the provisions of the Local Government Finance Act 1988[6]; and

(2) the day falls within a prescribed relevant financial year[7],

the regulations may contain provisions that the chargeable amount will be such as is found in accordance with prescribed rules instead[8]. Consequently, certain provisions of the Local Government Finance Act 1988[9] do not apply as regards the day[10].

Such regulations may: (a) contain different provision in relation to locally listed hereditaments[11] whose rateable value exceeds (and those whose rateable value does not exceed) a prescribed figure[12]; (b) include provision imposing duties and conferring powers on valuation officers[13] (whether as regards determinations, certificates or otherwise)[14] in relation to the ascertainment of rateable values[15]; and (c) include provision as to appeals relating to things done or not done by such officers[16].

In making such regulations, the Secretary of State must have regard to the object of securing (so far as practicable) that the aggregate amount payable to him and all billing authorities[17] by way of non-domestic rates as regards a particular relevant period is, after disregarding any adjustments made to take account of amounts being payable at times other than those at which they would have been payable apart from the regulations, the same as the aggregate amount which would be so payable apart from the regulations[18]. Once the actual aggregate amounts and adjustments for a particular relevant period are ascertained, the Secretary of State may amend such regulations in their application to a financial year which begins after the coming into force of the amending regulations and falls within the same or a later relevant period to reflect the extent to which the actual aggregate amounts and adjustments differ from his estimate of those amounts and adjustments[19].

Under the regulations so made[20], ratepayers who are liable as regards certain defined hereditaments[21], and whose bills (the 'notional chargeable amount')[22] would have changed by a certain amount, have those changes in their liability phased in gradually over four years rather than having a sudden change of amount in the first year[23]. Provision is made for the determination of the substituted chargeable amount where the hereditament in question is shown in a local list or the central list and where specified conditions are met[24]. In cases where the principal rules apply[25], then the chargeable amount for a hereditament for each day is calculated by multiplying the base liability[26] by the appropriate fraction[27], by dividing the product so found by the number of days in the year and by adding to the amount so found the small business rate relief correction factor[28]. Once the chargeable amount is calculated, the mandatory reliefs[29] are deducted[30]. The rules are modified where there has been a change to the rateable value

of the hereditament[31] or where the hereditament is partly occupied[32] or where, as a result of a structural alteration, a hereditament is deleted from a local list but is subsequently restored to it on or after 1 April 2005[33].

1 For the purposes of the Local Government Finance Act 1988 s 57A (as added and amended), a relevant period is a period of five years beginning on 1 April 2005 or on any 1 April after that date on which lists must be compiled: s 57A(13)(a) (s 57A added by the Local Government Act 2003 s 65(1)). See note 4 infra. As to rating lists see para 118 et seq post.

As to transitional provisions made in relation to the 1990–1994 and 1995–1999 rating lists see para 83 ante. For the provisions applicable, in relation to England, in respect of the period of five years beginning on 1 April 2000 and ending on 31 March 2005, see the Non-Domestic Rating (Chargeable Amounts) (England) Regulations 1999, SI 1999/3379 (amended by SI 2000/936; SI 2004/1297), made under the Local Government Finance Act 1988 s 58 (as amended), which is now applicable only in relation to Wales (see para 85 post). For the meanings of 'England' and 'Wales' see para 1 note 2 ante.

2 As to the Secretary of State see para 3 ante.

3 Ie under the Local Government Finance Act 1988 s 57A (as added and amended): see s 57A(1) (as added: see note 1 supra). As to the chargeable amounts generally see para 60 et seq ante.

4 Ibid s 57A(1) (as added: see note 1 supra). As to the making of regulations under the Local Government Finance Act 1988 generally see para 3 ante. The power to make regulations under s 57A (as added and amended) is exercisable by statutory instrument, and no such regulations may be made unless a draft of them has been laid before and approved by resolution of each House of Parliament: s 143(4) (amended by the Local Government and Housing Act 1989 ss 139, 194, Sch 5 paras 72, 79(3), Sch 12; and the Local Government Act 2003 s 127(1), Sch 7 paras 9(1), 24(1), (3)).

For the provisions applicable in relation to England, in respect of the period beginning 1 April 2005 and ending on 31 March 2009, see the Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2004, SI 2004/3387 (amended by SI 2005/991; SI 2006/3394); and notes 20–33 infra. Accordingly, the relevant period in relation to which, in accordance with the Local Government Finance Act 1988 s 57A (as added and amended), the Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2004, SI 2004/3387 (as amended) apply, is the period beginning on 1 April 2005 and ending on 31 March 2009 (see reg 2(1)); a relevant day is a day falling within the relevant period (see reg 2(2)); and a relevant year is a financial year falling within the relevant period (see reg 2(3)).

5 For the meaning of 'hereditament' see para 33 et seq ante.

6 Local Government Finance Act 1988 s 57A(2)(a) (s 57A as added (see note 1 supra); s 57A(2)(a) amended by the Rating (Empty Properties) Act 2007 s 2(1), Sch 1 para 3(1)). The text refers to the chargeable amount for a chargeable day which falls to be determined under the Local Government Finance Act 1988 s 43 (as amended) (see paras 60, 70 et seq ante), s 45 (as amended) (see paras 62–63, 78–79 ante), s 45A (as added) (see para 78 ante) or s 54 (see para 69 ante): see s 57A(2)(a) (as so added and amended).

7 Ibid s 57A(2)(b) (as added: see note 1 supra). 'Prescribed' in the context of regulations, means prescribed by the regulations: s 146(6). For the purposes of s 57A (as added and amended), a relevant financial year, as regards regulations relating to a relevant period, is a financial year falling within the period: s 57A(13)(b) (as so added). Without prejudice to s 143(1) (see para 3 ante), regulations under s 57A (as added and amended) relating to a relevant period may contain different provisions for different relevant financial years: s 57A(6) (as so added). For the meaning of 'financial year' for these purposes see para 1 note 1 ante.

Regulations under s 57A (as added and amended), in their application to a particular relevant financial year, are not effective unless they come into force before 1 January immediately preceding the year; but this is without prejudice to the power to amend or revoke: s 57A(9) (as so added).

8 Ibid s 57A(2), (3)(a) (as added: see note 1 supra). Rules prescribed under s 57A (as added and amended) may be framed by reference to such factors as the Secretary of State thinks fit: s 57A(5) (as so added).

A chargeable amount found in accordance with rules prescribed under s 57A (as added and amended), and any calculation (or component of a calculation) used to find that amount, may be the same as or different from what it would be apart from the regulations: s 57A(4) (as so added).

9 Ie ibid s 43(4)–(6E) (as amended) (see paras 60, 73, 76 ante), s 44 (as amended) (see para 60 ante), s 45(4) (as substituted) (see para 62 ante), s 45(4A)–(4B) (as added) (see para 79 ante), s 45A (as added) (see para 78 ante), s 46 (as amended) (see para 62 ante) or s 54(4)–(7) (see para 69 ante): see s 57A(2), (3)(b) (as added and amended: see note 10 infra).

10 Ibid s 57A(2), (3)(b) (s 57A as added (see note 1 supra); s 57A(3)(b) amended by the Rating (Empty Properties) Act 2007 Sch 1 para 3(2)).

11 For these purposes, a locally listed hereditament is a hereditament for the time being shown in a local non-domestic rating list: see the Local Government Finance Act 1988 s 57A(7) (as added: see note 1 supra). As to local non-domestic rating lists see para 121 et seq post.

12 Ibid s 57A(7) (as added: see note 1 supra). Head (a) in the text is without prejudice to s 143(1) (see para 3 ante): see s 57A(7) (as so added).

13 As to valuation officers see para 6 ante.

14 As to valuation determinations, certificates, etc see para 87 et seq post.

15 Local Government Finance Act 1988 s 57A(8)(a) (as added: see note 1 supra). Head (b) in the text is without prejudice to s 143(1), (2) (s 143(2) as amended) (see para 3 ante): see s 57A(8) (as so added).

16 Ibid s 57A(8)(b) (as added: see note 1 supra). Head (c) in the text is without prejudice to s 143(1), (2) (s 143(2) as amended) (see para 3 ante): see s 57A(8) (as so added). As to valuation list appeals see para 147 et seq post.

17 As to billing authorities see para 5 ante.

18 Local Government Finance Act 1988 s 57A(10) (as added: see note 1 supra). For these purposes, the Secretary of State may rely on his estimate of the aggregate amounts and adjustments mentioned in s 57A(10) (as added): s 57A(11) (as so added).

19 Ibid s 57A(12) (as added: see note 1 supra).

20 Ie the Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2004, SI 2004/3387 (amended by SI 2005/991; SI 2006/3394): see note 4 supra.

21 See the Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2004, SI 2004/3387, reg 3 (amended by SI 2006/3394). As to the class of defined hereditament as it was originally enacted see *R (on the application of the British Waterways Board) v First Secretary of State* [2006] EWHC 1019 (Admin), [2006] RA 241 (transitional provisions scheme as enacted, which only applied to hereditaments included in a rating list 'with a rateable value greater than zero' on 31 March 2005, affected the claimant in an irrational and unfair way and, accordingly, was unlawful and should be reconsidered).

In relation to a defined hereditament which is shown in a local list and is situated in the area of a special authority see the Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2004, SI 2004/3387, reg 4. As to special authorities see para 60 note 10 ante.

22 Ie as determined under ibid reg 5.

23 As to the general effect of the scheme see the text and notes 24–33 infra. Provision is made requiring the appropriate valuation officer to certify values for the purposes of the application of the rules in the Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2004, SI 2004/3387 (as amended): see regs 15–18. Appeals against such certificates may be made by means of the procedure set out in reg 19.

24 See ibid Pt 2 (regs 5–14) (as amended). The rules in Pt 2 (as amended) are replaced in cases where a hereditament splits or is merged with one or more other hereditaments whether that split or merger occurs on or after 1 April 2005: see Sch 2 (amended by SI 2005/991).

25 As to the application of the principal rules see the Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2004, SI 2004/3387, reg 10.

26 Ie as determined under ibid regs 6–8.

27 Ie as determined under ibid reg 9 (amended by SI 2005/991). The appropriate fraction is different for different classes of hereditaments: see the Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2004, SI 2004/3387, reg 9 (as so amended).

28 See ibid reg 11. The small business rate relief correction factor is found by subtracting the small business non-domestic rating multiplier for the relevant year in which the day falls from the non-domestic rating multiplier for the relevant year in which the day falls, by multiplying the product of that subtraction by the rateable value shown for the hereditament in the local or central list for the day (whichever applies) and by dividing that product by the number of days in the relevant year: see reg 11(13). As to the small business non-domestic rating multiplier and the non-domestic rating multiplier see para 86 post.

29 As to which see para 70 et seq ante.

30 See the Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2004, SI 2004/3387, reg 11.

31 In relation to cases where there has been a change to the rateable value of the hereditament after 1 April 2005 see ibid reg 12. In relation to cases where there has been a change to the rateable value of the hereditament on 1 April 2005 see reg 12, as modified by reg 13.

32 See ibid reg 14.

33 See ibid Sch 1.

85. Power to make special provision for Wales. In relation to any relevant period[1], the Welsh Ministers[2] may make regulations in relation to the chargeable amounts[3] which apply only in relation to Wales[4]. As regards any case which falls within a prescribed description[5] and where:

(1) as regards a hereditament[6] or hereditaments, the chargeable amount for a chargeable day falls to be determined under the provisions of the Local Government Finance Act 1988[7]; and

(2) the day falls within the relevant period concerned[8],

the regulations may contain provisions that the chargeable amount will be such as is found in accordance with prescribed rules instead[9]. Consequently, certain provisions of the Local Government Finance Act 1988[10] do not apply as regards the day[11].

Such regulations may: (a) contain different provision in relation to locally listed hereditaments[12] whose rateable value exceeds (and those whose rateable value does not exceed) a prescribed figure[13]; (b) include provision imposing duties and conferring powers on valuation officers[14] (whether as regards determinations, certificates or otherwise)[15] in relation to the ascertainment of rateable values[16]; and (c) include provision as to appeals relating to things done or not done by such officers[17].

In making such regulations, the Welsh Ministers must have regard to the object of securing (so far as practicable) that the aggregate amount payable to them and all billing authorities[18] by way of non-domestic rates as regards a particular financial year does not exceed that which it would in their opinion be likely to be apart from the regulations[19].

1 For these purposes, a relevant period is a period of five years beginning on any 1 April (other than 1 April 1990) on which lists must be compiled: Local Government Finance Act 1988 s 58(10)(a). As to rating lists see para 118 et seq post.

As to transitional provisions made in relation to the 1990–1994 and 1995–1999 rating lists see para 83 ante. For the provisions applicable, in relation to Wales, in respect of the period of five years beginning on 1 April 2000 and ending on 31 March 2005, see the Non-Domestic Rating (Chargeable Amounts) (Wales) Regulations 1999, SI 1999/3454 (amended by SI 2000/2041), made under the Local Government Finance Act 1988 s 58 (as amended), which is now applicable only in relation to Wales. As to the transitional provisions that now apply to England see para 84 ante. For the meanings of 'England' and 'Wales' see para 1 note 2 ante.

2 As to the Welsh Ministers see para 3 ante.

3 Ie under the Local Government Finance Act 1988 s 58 (as amended): see s 58(1) (as amended: see note 4 infra). As to the chargeable amounts generally see para 60 et seq ante.

4 Ibid s 58(1) (amended by the Local Government Act 2003 s 65(2)). As to the making of regulations under the Local Government Finance Act 1988 generally see para 3 ante. The power to make regulations under the Local Government Finance Act 1988 s 58 (as amended) is exercisable by statutory instrument, and no such regulations may be made unless a draft of them has been laid before and approved by resolution of each House of Parliament: s 143(4) (amended by the Local Government and Housing Act 1989 ss 139, 194, Sch 5 paras 72, 79(3), Sch 12). As from a day to be appointed under the Local Government Act 2003 s 128(3)(e), the Local Government Finance Act 1988 s 143(4) (as amended) is further amended so that the reference to s 58 (as amended) is repealed: see s 143(4) (as so amended; prospectively further amended by the Local Government Act 2003 s 127(1), Sch 7 paras 9(1), 24(1), (3)). However, at the date at which this volume states the law, no such day had been appointed in relation to Wales.

Without prejudice to the Local Government Finance Act 1988 s 143(1) (see para 3 ante), regulations under s 58 (as amended) relating to a relevant period may contain different provision for different relevant financial years: s 58(6). For the meaning of 'financial year' for these purposes see para 1 note 1 ante. Regulations under s 58 (as amended), in their application to a particular relevant financial year, are not effective unless they come into force before 1 January immediately preceding the year; but this is without prejudice to the power to amend or revoke: s 58(8) (amended by the Non-Domestic Rating Act 1994 s 2(2)).

5 Local Government Finance Act 1988 s 58(2). 'Prescribed' in the context of regulations, means prescribed by the regulations: s 146(6).

6 For the meaning of 'hereditament' see para 33 et seq ante.

7 Local Government Finance Act 1988 s 58(2)(a) (amended by the Rating (Empty Properties) Act 2007 s 2(1), Sch 1 para 3(1)). The text refers to the chargeable amount for a chargeahle day which falls to be determined under the Local Government Finance Act 1988 s 43 (as amended) (see paras 60, 70 et seq ante), s 45 (as amended) (see paras 62–63, 78–79 ante), s 45A (as added) (see para 78 ante) or s 54 (see para 69 ante): see s 58(2)(a) (as so amended).

8 Ibid s 58(2)(b).

9 Ibid s 58(2), (3)(a). Rules prescribed under s 58 (as amended) may be framed by reference to such factors as the Welsh Ministers think fit: s 58(5).

A chargeable amount found in accordance with rules prescribed under s 58 (as amended) may be the same as or different from what it would be apart from the regulations: s 58(4).

10 Ie ibid s 43(4)–(6E) (as amended) (see paras 60, 73, 76 ante), s 44 (as amended) (see para 60 ante), s 45(4) (as substituted) (see para 62 ante), s 45(4A)–(4B) (as added) (see para 79 ante), s 45A (as added) (see para 78 ante), s 46 (as amended) (see para 62 ante) or s 54(4)–(7) (see para 69 ante): see s 58(2), (3)(b) (s 58(3)(b) as amended: see note 11 infra).

11 Ibid s 58(2), (3)(b) (s 58(3)(b) amended by the Local Government and Rating Act 1997 s 1, Sch 1 para 5; and the Rating (Empty Properties) Act 2007 Sch 1 para 3(2)).

12 For these purposes, a locally listed hereditament is a hereditament for the time being shown in a local non-domestic rating list: see the Local Government Finance Act 1988 s 58(7). As to local non-domestic rating lists see para 121 et seq post.

13 Ibid s 58(7). Head (a) in the text is without prejudice to s 143(1) (see para 3 ante): see s 58(7).

14 As to valuation officers see para 6 ante.

15 As to valuation determinations, certificates, etc see para 87 et seq post.

16 Local Government Finance Act 1988 s 58(7A)(a) (s 58(7A) added by the Non-Domestic Rating Act 1994 s 2(1)). Head (b) in the text is without prejudice to the Local Government Finance Act 1988 s 143(1), (2) (s 143(2) as amended) (see para 3 ante): see s 58(7A) (as so added).

17 Ibid s 58(7A)(b) (as added: see note 16 supra). Head (c) in the text is without prejudice to s 143(1), (2) (s 143(2) as amended) (see para 3 ante): see s 58(7A) (as so added). As to valuation list appeals see para 147 et seq post.

18 As to billing authorities see para 5 ante.

19 Local Government Finance Act 1988 s 58(9) (amended by the Local Government Finance Act 1992 s 117(1), Sch 13 para 68; and the Non-Domestic Rating Act 1994 s 2(3)).

(6) VALUATION FOR RATING

(i) Basis for Assessment

86. Non-domestic rating multipliers. Subject to the transitional provisions[1] and to the exemptions and reliefs which may apply to particular hereditaments[2], the amount payable by way of non-domestic rates is calculated for each chargeable year[3] by reference to the rateable value[4] shown in the appropriate list[5] for the hereditament, and the non-domestic rating multiplier[6] (or, in relation to England[7] only, the small business non-domestic rating multiplier[8], where that applies[9]).

The non-domestic rating multiplier for the financial year beginning 1 April 1990 was specified by the Secretary of State[10] in the Revenue Support Grant Report[11]. For subsequent years (other than those for which a new list must be compiled[12]) the non-domestic rating multiplier and the small business non-domestic rating multiplier are calculated on the basis of a formula which reflects any change in the retail price index (unless the Treasury specifies a lesser figure)[13]. For the years in which new lists are compiled, a further factor is introduced into the formula to reflect the change in the total amount of rateable values from the old to the new lists[14].

1 As to which see para 83 et seq ante.

2 As to exemptions from non-domestic rating see para 37 et seq ante; and as to relief schemes see para 70 et seq ante. For the meaning of 'hereditament' see para 33 et seq ante.

3 For the purposes of the Local Government Finance Act 1988, chargeable financial years are financial years beginning in 1990 and subsequent years: s 145(1). For the meaning of 'financial year' for these purposes see para 1 note 1 ante.

4 As to assessment of the rateable value see para 87 post.

5 As to rating lists see para 118 et seq post.

6 As to the non-domestic rating multiplier generally see the Local Government Finance Act 1988 s 56(2), Sch 7 paras 1, 2 (Sch 7 para 1 amended by the Local Government Act 2003 s 62(1), (2); and the Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007, SI 2007/1388, art 3, Sch 1 paras 21, 39(1), (2)). As to the non-domestic rating multipliers which relate to England only see the Local Government Finance Act 1988 Sch 7 para 3A (added by the Local Government Act 2003 s 62(1), (3)) and the Local Government Finance Act 1988 Sch 7 para 4A (added by the Local Government Act 2003 s 62(1), (4)). As to the non-domestic rating multipliers which relate to Wales only see the Local Government Finance Act 1988 Sch 7 para 3B (added by the Local

Government Act 2003 s 62(1), (3); amended by the Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007, SI 2007/1388, Sch 1 paras 21, 39(1), (3)) and the Local Government Finance Act 1988 Sch 7 para 4B (added by the Local Government Act 2003 s 62(1), (4)). As to the calculation of the multipliers see the Local Government Finance Act 1988 Sch 7 para 5 (amended by the Local Government Finance Act 1992 s 117(1), Sch 13 para 84; the Local Government Act 2003 s 62(1), (5)–(7), s 127(1), Sch 7 paras 9(1), 25(1), (2); the Statistics and Registration Service Act 2007 s 60(1), Sch 3 para 5; the Transfer of Functions (Registration and Statistics) Order 1996, SI 1996/273, art 5(1), Sch 5 para 24; and the Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007, SI 2007/1388, Sch 1 paras 21, 39(1), (4)), and the Local Government Finance Act 1988 Sch 7 para 6 (amended by the Local Government Finance Act 1992 Sch 13 para 84; the Local Government Act 2003 s 62(1), (8)–(10), Sch 7 paras 9(1), 25(1), (3); and the Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007, SI 2007/1388, Sch 1 paras 21, 39(1), (5)). Special provision was made in relation to the transitional period 1990–95: see the Local Government Finance Act 1988 Sch 7 paras 7, 8 (both amended by the Local Government and Housing Act 1989 s 139, Sch 5 paras 39, 79(3)). The power to make an order under the Local Government Finance Act 1988 Sch 7 para 5 (as amended) is exercisable as there mentioned: see s 143(9); and para 3 ante.

As to the non-domestic rating multiplier to be used by a special authority see Sch 7 para 9 (amended by the Local Government Finance Act 1992 s 104, Sch 10 para 5; and the Local Government Act 2003 Sch 7 paras 9(1), 25(1), (4)), the Local Government Finance Act 1988 Sch 7 para 10 (amended by the Local Government Act 2003 Sch 7 paras 9(1), 25(1), (5), (6)) and the Local Government Finance Act 1988 Sch 7 para 11 (amended by the Local Government Act 2003 Sch 7 paras 9(1), 25(1), (6)). The setting by a special authority of a non-domestic rating multiplier under the Local Government Finance Act 1988 Sch 7 (as amended) must be discharged only by the authority: see s 139(1), (2) (s 139(2) amended by the Local Government Finance Act 1992 Sch 14; and the Local Government Act 2003 Sch 7 paras 9(1), 21). For the meaning of 'special authority' see para 60 note 10 ante.

The specification of a non-domestic rating multiplier under the Local Government Finance Act 1988 Sch 7 paras 2, 7 (as amended) and the setting by a special authority of a non-domestic rating multiplier under Sch 7 (as amended) may not be questioned except by an application for judicial review: see s 138(1), (2) (s 138(2) amended by the Local Government Finance Act 1992 Sch 13 para 76(1), Sch 14; and the Local Government Act 2003 Sch 7 paras 9(1), 20). If, on such an application for judicial review, the court decides to grant relief, it must quash the specification or setting, as the case may be: see the Local Government Finance Act 1988 s 138(3) (substituted by the Local Government Finance Act 1992 Sch 13 para 76(2)). As to the procedure for judicial review see ADMINISTRATIVE LAW vol 1(1) (2001 Reissue) paras 69 et seq, 159 et seq.

7 For the meaning of 'England' see para 1 note 2 ante.

8 As to the small business non-domestic rating multipliers generally see the Local Government Finance Act 1988 Sch 7 para 1 (as amended: see note 6 supra). As to the calculation of the small business non-domestic rating multiplier see Sch 7 para 3 (substituted by the Local Government Act 2003 s 62(1), (3)) and the Local Government Finance Act 1988 Sch 7 para 4 (substituted by the Local Government Act 2003 s 62(1), (4)). As to the calculation of the multipliers see the Local Government Finance Act 1988 s 143(9), Sch 7 paras 5, 6 (Sch 7 paras 5, 6 as amended: see note 6 supra).

As to the small business non-domestic rating multipliers to be used by a special authority see Sch 7 para 9A (added by the Local Government Act 2003 s 62(1), (11)) and the Local Government Finance Act 1988 Sch 7 paras 10, 11 (as amended: see note 6 supra). The setting by a special authority of a small business non-domestic rating multiplier under Sch 7 (as amended) must be discharged only by the authority: see s 139(1), (2) (s 139(2) as amended: see note 6 supra). The setting by a special authority of a small business non-domestic rating multiplier under Sch 7 (as amended) may not be questioned except by an application for judicial review: see s 138(1), (2) (s 138(2) as amended: see note 6 supra). If, on such an application for judicial review, the court decides to grant relief, it must quash the setting: see s 138(3) (as substituted: see note 6 supra).

9 As to the application of the small business non-domestic rating multiplier see para 70 ante.

10 As to the Secretary of State see para 3 ante.

11 See the Local Government Finance Act 1988 Sch 7 paras 1, 2 (as amended); and note 6 supra.

12 As to the compilation of rating lists see paras 121, 125 post.

13 See the Local Government Finance Act 1988 Sch 7 para 3 (as substituted), Sch 7 paras 3A, 3B (as added), Sch 7 para 5 (as amended); and note 6 supra. The Treasury function under Sch 7 (as amended) does not appear to have been transferred to the Welsh Ministers: see para 3 ante. As to the Treasury see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) paras 512–517.

14 See ibid Sch 7 para 4 (as substituted), Sch 7 paras 4A, 4B (as added), Sch 7 para 5 (as amended); and note 6 supra.

(ii) Determination of Rateable Value

A. THE BASIS FOR DETERMINATION

87. Assessment of rateable value. Rates are assessed on the rateable value of the non-domestic hereditament[1]. The rateable value of a non-domestic hereditament (none of which consists of domestic property and none of which is exempt from local non-domestic rating[2]) is the amount equal to the rent at which it is estimated the hereditament might reasonably be expected to let from year to year on these three assumptions[3], namely:

(1) that the tenancy begins on the day by reference to which the determination is to be made[4];

(2) that, immediately before the tenancy begins, the hereditament is in a state of reasonable repair, but excluding from this assumption any repairs which a reasonable landlord would consider uneconomic[5];

(3) that the tenant undertakes to pay all usual tenant's rates and taxes and to bear the cost of the repairs and insurance and the other expenses (if any) necessary to maintain the hereditament in a state to command the rent mentioned above[6].

The rateable value of a composite hereditament[7] (none of which is exempt from local non-domestic rating) is the amount equal to the rent which, assuming it is let under the statutory terms above, would reasonably be attributed to the non-domestic use of the property[8]. The rateable value of a non-domestic hereditament which is partially exempt from local non-domestic rating is the amount equal to the rent which, assuming it is let under the statutory terms, is reasonably attributable to the non-domestic use of that part of the hereditament which is not exempt[9].

Various methods of valuation are applied in order to arrive at the hypothetical rent, including: by reference to the actual rent paid for the hereditament, or for others comparable to it, or, where there are no rents, by reference to the assessment of comparable hereditaments, or to the profits earned at the hereditament, or to the cost of construction of it[10].

1 The Local Government Finance Act 1988 s 56(1), Sch 6 (as amended) has effect to determine the rateable value of non-domestic hereditaments for the purposes of Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 88 et seq post): Sch 6 para 1 (amended by the Local Government and Housing Act 1989 ss 139, 194, Sch 5 paras 38, 79(3), Sch 12 Pt II). For these purposes, references to the non-domestic use of property are references to use otherwise than in such manner as to constitute the property domestic property: Local Government Finance Act 1988 Sch 6 para 2(13) (added by the Local Government and Housing Act 1989 Sch 5 paras 38, 79(3)). For the meaning of 'hereditament' see para 33 et seq ante; and for the meaning of 'domestic property' in relation to non-domestic rating see para 120 post.

2 As to the exemptions from non-domestic rating see para 37 et seq ante.

3 Local Government Finance Act 1988 Sch 6 para 2(1) (amended by the Local Government and Housing Act 1989 Sch 5 paras 38, 79(3); and the Rating (Valuation) Act 1999 s 1(1), (2)). Where the rateable value would include a fraction of a pound, the fraction must be made up to one pound if it would exceed 50 pence, and the fraction must be ignored if it would be 50 pence or less: Local Government Finance Act 1988 Sch 6 para 2(2). Provisions as to the method of valuation for non-domestic property are set out in s 56, Sch 6 (as amended), with special provision being made in relation to the years 1990–95 by virtue of s 57 (as substituted), Sch 7A (as added and amended): see para 83 ante.

The definition set out in the text (which relies upon a notional annual rent based upon certain assumptions) derives from earlier legislation starting with the Parochial Assessment Act 1836 (repealed), whose purpose was to establish one uniform mode of rating for the relief of the poor; and cases decided under earlier legislation continue to be of relevance to the current statutory definition: see eg *R v Paddington Valuation Officer, ex p Peachey Property Corpn* [1966] 1 QB 380 at 412, [1965] 2 All ER 836 at 848, CA, per Lord Denning MR (*'[The] hypothetical rent [...] is the rent which an imaginary tenant might be reasonably expected to pay to an imaginary landlord for a tenancy of this dwelling in this locality, on the hypothesis that both are reasonable people, the landlord not being extortionate, the tenant not being under pressure, the dwelling*

being vacant and to let, not subject to any control, the landlord agreeing to do the repairs and pay the insurance, the tenant agreeing to pay the rates, the period not too short nor yet too long, simply from year to year'). The Court of Appeal has emphasised that the statutory hypothesis is only a mechanism for enabling one to arrive at a value for a particular hereditament for rating purposes and that a rating valuation should not depart from the real world further than the rating hypothesis compels (the 'reality principle'): see *Hoare (Valuation Officer) v National Trust, National Trust v Spratling (Valuation Officer)* [1999] 1 EGLR 155 at 160, [1998] RA 391 at 408, CA, per Schiemann LJ, and at 162 and 415 per Peter Gibson LJ.

The standard by which rating seeks to establish the value of any particular hereditament, being the annual letting value in comparison with the respective values of the rest, must be universal even though in many cases it demands various hypotheses (this being the principle of 'universality' or of 'uniformity'): see *Dawkins (Valuation Officer) v Ash Bros and Heaton Ltd* [1969] 2 AC 366 at 381–382, [1969] 2 All ER 246 at 252, HL, per Lord Pearce. It is a vital principle of the law of rating that each hereditament should be independently assessed: see *Ladies' Hosiery and Underwear Ltd v West Middlesex Assessment Committee* [1932] 2 KB 679 at 686, CA, per Scrutton LJ. Besides the principle of independent valuation, there is another vital principle: that as between different classes of hereditaments, and as between different hereditaments in the same class, the valuation should be fair and equal, but with a third important qualification, that the assessing authority should not sacrifice correctness to ensure uniformity (but, if possible, obtain uniformity by correcting inaccuracies rather than by making an inaccurate assessment in order to secure uniform error): see *Ladies' Hosiery and Underwear Ltd v West Middlesex Assessment Committee* supra at 688 per Scrutton LJ.

4 Local Government Finance Act 1988 Sch 6 para 2(1)(a) (Sch 6 para 2(1)(a)–(c) added by the Rating (Valuation) Act 1999 s 1(1), (2)).

5 Local Government Finance Act 1988 Sch 6 para 2(1)(b) (as added: see note 4 supra). See e g *Henriques v Stephens (Valuation Officer)* [2001] RA 366, Lands Tribunal (statutory assumptions applied to property in exceptionally poor repair where there was no evidence to suggest that repairs would be uneconomic). For the purposes of the Local Government Finance Act 1988 Sch 6 para 2 (as amended), the state of repair of a hereditament at any time relevant for the purposes of a list is assumed to be the state of repair in which, under Sch 6 para 2(1) (as added and amended), it is assumed to be immediately before the assumed tenancy begins: Sch 6 para 2(8A) (added by the Rating (Valuation) Act 1999 s 1(1), (3)). See e g *Archer Ltd v Robinson (Valuation Officer)* [2003] RA 1, Lands Tribunal (property valued on the assumption that, immediately before the tenancy begins, it has been repaired by way of over-roofing).

6 Local Government Finance Act 1988 Sch 6 para 2(1)(c) (as added: see note 4 supra).

7 For the meaning of 'composite hereditament' for these purposes see para 33 note 6 ante.

8 Local Government Finance Act 1988 Sch 6 para 2(1A) (Sch 6 para 2(1A), (1B) added by the Local Government and Housing Act 1989 Sch 5 paras 38, 79(3)).

9 Local Government Finance Act 1988 Sch 6 para 2(1B) (as added: see note 8 supra).

10 As to the methods of valuation see para 112 et seq post.

88. The duration of the hypothetical tenancy. As the rent to be estimated is such a rent as might reasonably be expected for the hereditament if let from year to year[1], it is not such a rent as might be obtained for it if let for a term of years; equally, it is not to be assumed in valuing that the tenancy will last only for one year because it must be assumed that there is a reasonable prospect of continuance[2].

1 See para 87 ante.

2 See *Staley v Castleton Overseers* (1864) 33 LJMC 178 at 181–182 per Blackburn J; *Great Eastern Rly Co v Haughley* (1866) LR 1 QB 666; *Clive v Foy Overseers* (1875) 39 JP Jo 774, DC; *R v South Staffordshire Waterworks Co* (1885) 16 QBD 359, CA (approved in *Railway Assessment Authority v Southern Rly Co* [1936] AC 266, [1936] 1 All ER 26, HL, per Lord Hailsham LC); *Humber Ltd v Jones (Valuation Officer) and Rugby RDC* (1960) 6 RRC 161, CA; *L & A Black Ltd v Burton (Valuation Officer)* (1958) 3 RRC 172, Lands Tribunal; c f *Lloyd (Valuation Officer) v Rossleigh Ltd* [1962] RVR 249, CA. Where a colliery was at the time working at a loss, the rental value was not necessarily nil; the possibility of improvement in future years had to be taken into account: *Consett Iron Co Ltd v Assessment Committee for No 5 or North-Western Area of County of Durham* [1931] AC 396, HL.

The cases cited in this paragraph were decided prior to the coming into force of the Local Government Finance Act 1988 and, therefore, must now be considered in relation to the non-domestic rating provisions in Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 89 et seq post). As to the historical development of rating law and the continuing relevance of the old case law to the current statutory regime see para 2 ante.

89. Usual tenant's rates and taxes. The hypothetical rent is to be estimated in the case of all hereditaments on the assumption that the tenant pays all usual tenant's rates

and taxes[1]. In the past, a variety of taxes, duties and charges, subsequently repealed, have been considered in this context[2]. The non-domestic rate will normally now be the only rate or tax falling within this phrase. If an actual rent is used as a basis for calculating the hypothetical rent of a hereditament and that rent includes such a rate, a deduction must be made from it. Any rating reliefs enjoyed by the occupier must be taken into account[3].

1 See para 87 ante.

2 The poor rate (now the non-domestic rate) was a usual tenant's rate: *Hackney and Lamberhurst Tithe Commutation Rent Charges Case* (1858) EB & E 1 at 47. A water rate was not a 'rate' at all, but a charge for the supply of a commodity: *Re Baker, ex p Eastbourne Waterworks Co v Official Receiver* [1954] 2 All ER 790, [1954] 1 WLR 1144. As to the treatment of the old sewers rate see *R v Adames* (1832) 4 B & Ad 61; *R v Hall Dare* (1864) 5 B & S 785; *R v Gainsborough Union* (1871) LR 7 QB 64; *Green v Newport Union* [1909] AC 35, HL. Landlord's property tax (under legislation now repealed) was not a usual tenant's tax (*R v Southampton Dock Co* (1851) 14 QB 587); the former land tax was not a usual tenant's tax (*Hackney and Lamberhurst Tithe Commutation Rent Charges Case* supra); payments on account of the monopoly value (now abolished) of licensed premises were not a usual tenant's tax (*Appenrodt v Central Middlesex Assessment Committee* [1937] 2 KB 48 at 59, 69, [1937] 2 All ER 325 at 331, 338, CA); and compensation charges, being deductible from rent, would not appear to be a tenant's tax. As to the meaning of 'rates and taxes' in relation to covenants for payment under tenancy agreements see LANDLORD AND TENANT vol 27(1) (2006 Reissue) para 529.

The cases cited in this paragraph were decided prior to the coming into force of the Local Government Finance Act 1988 and, therefore, must now be considered in relation to the non-domestic rating provisions in Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 90 et seq post). As to the historical development of rating law and the continuing relevance of the old case law to the current statutory regime see para 2 ante.

3 *Margate Pier and Harbour Co v Yorke (Valuation Officer)* (1955) 48 R & IT 107, Lands Tribunal.

90. Repairs, insurance and other expenses. The burden of the cost of the repairs and insurance, and of the other expenses, if any, necessary to maintain the hereditament[1] in a state to command the hypothetical rent[2], falls on the tenant. In addition to the cost of repairs, a sinking fund for renewals when the premises are ultimately worn out may be allowed[3].

1 The phrase 'other expenses necessary to maintain the hereditament' is not to be construed *eiusdem generis* with 'repairs' and 'insurance': *Appenrodt v Central Middlesex Assessment Committee* [1937] 2 KB 48, [1937] 2 All ER 325, CA (monopoly value payments (now abolished) held to fall within the phrase); *Waddle v Sunderland Union* [1908] 1 KB 642, CA (compensation charge not such an expense). The phrase is not limited to expenditure on the hereditament itself but may include expenditure on other land if it is necessary to preserve the physical state of the hereditament. A renewal fund for the hereditament may be such an expense: *R v Wells* (1867) LR 2 QB 542; *Humber Ltd v Jones (Valuation Officer) and Rugby RDC* (1959) 5 RRC 23, Lands Tribunal (on appeal on another point (1960) 6 RRC 161, CA). The former drainage rates, sea defence rates, fishing rates and similar charges were such expenses: see *Green v Newport Union* [1909] AC 35, HL; *R v Hall Dare* (1864) 34 LJMC 17; *R v Gainsborough Union* (1871) LR 7 QB 64; *R v Smith* (1885) 55 LJMC 49. The cost of dredging a channel which does not form part of the hereditament is not such an expense: *White Bros v South Stoneham Union Assessment Committee* [1915] 1 KB 103, DC.

Most of the cases cited in this paragraph were decided prior to the coming into force of the Local Government Finance Act 1988 and, therefore, must now be considered in relation to the non-domestic rating provisions in Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 91 et seq post). As to the historical development of rating law and the continuing relevance of the old case law to the current statutory regime see para 2 ante.

2 In *Wexler v Playle (Valuation Officer)* [1960] 1 QB 217, [1960] 1 All ER 338, CA, the court inclined to the view that the words 'necessary to maintain the hereditament in a state to command the rent' qualify only 'the other expenses' and not 'the repairs and insurance', but the point was not decided. In *Hoare (Valuation Officer) v National Trust* [1999] 1 EGLR 155, [1998] RA 391, CA, it was held that the unique nature of the heritage properties in question meant that any landlord would have had difficulty in persuading the ratepayer to bear the unusually high costs of any repairs, as was required by the Local Government Finance Act 1988 s 56(1), Sch 6 para 2(1) (as amended) (see para 87 ante), but there would have been no other bidders for the hypothetical tenancy. Accordingly, it was considered to be crucial that, where a hypothetical tenant was also the actual occupier, its policies and reasons for wanting the property were taken into account when determining the hypothetical rent: *Hoare (Valuation Officer) v National Trust*

supra (ratepayer would not pay a rent for a loss-making property given its self-financing policy in the real world; the factors in this case indicated a nominal hypothetical rent). See also *Harrods Ltd v Baker (Valuation Officer)* [2007] RA 247, Lands Tribunal (appropriate rateable value for Harrods department store).

3 *R v Wells* (1867) LR 2 QB 542; *Humber Ltd v Jones (Valuation Officer) and Rugby RDC* (1959) 5 RRC 23, Lands Tribunal (on appeal on another point (1960) 6 RRC 161, CA). As to sinking funds when valuing on the profits basis see para 115 post.

91. Actual conditions affecting property when valuation made. The rent which a tenant could afford to give is determined *rebus sic stantibus*[1], that is to say with reference to the hereditament in its physical condition[2] on the material day[3], and to the mode in which it is actually used again at the material day[4]. A continuance of the existing conditions affecting the hereditament is *prima facie* assumed[5]. The issue as to whether lack of repair in a hereditament is to be ignored (as it was in cases valued under the previous law[6]) has been decided by statute[7]. The hereditament must be valued subject to any statutory restrictions in respect of it[8], other than those limiting the rent obtainable for it[9]. However, restrictive covenants and other private arrangements affecting the hereditament are irrelevant[10].

1 Ie, literally, 'as things stand'. For an early, possibly the first, use of the term '*rebus sic stantibus*' see *R v Fletton Overseers* (1861) 3 E & E 450 at 465.

Some of the cases cited in this paragraph were decided prior to the coming into force of the Local Government Finance Act 1988 and, therefore, must now be considered in relation to the non-domestic rating provisions in Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 92 et seq post). As to the historical development of rating law and the continuing relevance of the old case law to the current statutory regime see para 2 ante.

2 *R v Grand Junction Rly Co* (1844) 4 QB 18; *Sculcoates Union v Kingston-upon-Hull Dock Co* [1895] AC 136, HL; *Poplar Metropolitan Borough Assessment Committee v Roberts* [1922] 2 AC 93 at 120, HL; *Townley Mill Co (1919) Ltd v Oldham Assessment Committee* [1937] AC 419 at 436–437, [1937] 1 All ER 11 at 19–20, HL; *Robinson Bros (Brewers) Ltd v Houghton and Chester-le-Street Assessment Committee* [1937] 2 KB 445 at 468, [1937] 2 All ER 298 at 307, CA (affd [1938] AC 321, [1938] 2 All ER 79, HL).

If the land has buildings upon it and is occupied, it must be valued with them (see e g *R v Aberystwith Inhabitants* (1808) 10 East 354), but land must not be valued at the rent at which it would be let if more, or more valuable, buildings were erected on it (*R v Gardner* (1774) 1 Cowp 79; *Kempe v Spence* (1779) 2 Wm Bl 1244; *R v Mast* (1795) 6 Term Rep 154; *R v St Luke's Hospital* (1760) 2 Burr 1053 at 1064 (considered in *Liverpool Corpn v Chorley Union Assessment Committee and Withnell Overseers* [1913] AC 197 at 209, HL, per Lord Atkinson); *East London Rly Co v Whitechurch* (1874) LR 7 HL 81 at 86).

Temporary partitioning put up by the occupier may be ignored without breach of the *rebus sic stantibus* rule: *City of Sheffield v Meadow Dairy Ltd* (1958) 2 RRC 395, CA. No structural alteration may be envisaged such as the making of a fresh entrance or widening an existing one: *Manchester Tennis and Racquet Club v Castle (Valuation Officer)* (1960) 6 RRC 269, Lands Tribunal. But the making of a minor non–structural alteration may be envisaged, such as the removal of battens securing a garage door (*Appeal of Sheppard (Valuation Officer)* (1967) 13 RRC 139, Lands Tribunal), provided that the alteration is not so substantial as to change the mode or category of use (*Fir Mill Ltd v Royton UDC and Jones (Valuation Officer)* (1960) 7 RRC 171, Lands Tribunal). See *Williams v Scottish & Newcastle Retail Ltd* [2001] EWCA Civ 185 at [74], [76], [2001] RA 41 at [74], [76] per Robert Walker LJ; and also *Re Appeal of Clark (Valuation Officer)* [1987] RA 127, Lands Tribunal. As to whether works are repairs or structural improvements see *Civil Aviation Authority v Langford (Valuation Officer) and Camden London Borough Council* [1979] RA 1, (1978) 247 EG 957, Lands Tribunal (on appeal [1980] RA 369, 257 EG 273, CA); and *Murphy (Valuation Officer) v Courtney plc (formerly IAF Financial Services plc)* [1999] RA 1, Lands Tribunal.

3 As to the material day see para 95 post.

4 Pursuant to what Parliament has provided for in the Local Government Finance Act 1988 s 56(1), Sch 6 para 2(3)–(7) (as amended) (see para 94 post), the 'mode or category of occupation of the hereditament' is recognised as being a material factor in valuation for rating purposes, so confirming that the *rebus sic stantibus* principle has a second limb (user) in addition to its first limb (physical condition): *Williams v Scottish & Newcastle Retail Ltd* [2001] EWCA Civ 185, [2001] RA 41, (2001) Times, 6 March. *Williams v Scottish & Newcastle Retail Ltd* supra at [69] per Robert Walker LJ disapproves the dictum stated in *Midland Bank Ltd v Lanham (Valuation Officer)* [1978] RA 1 at 26, [1978] 1 EGLR 189 at 195, Lands Tribunal, per Emlyn Jones ('*Finally, all alternative uses to which the hereditament in its existing state could be put in the real world, and which would be in the minds of competing bidders in the market, are to be taken as being within the same mode or category, where the existence of such competition can be established by evidence*') as being a formulation

which either contradicts the rest of the Tribunal's stated conclusion, which referred to the use being limited to the same mode or category as the existing use, or at best reduces the second limb of the rule recognised in the Local Government Finance Act 1988 Sch 6 para 2(7)(b) (see para 95 post) to a pale reflection of the first limb recognised in Sch 6 para 2(7)(a) (see para 95 post). Parliament's adoption of the expression 'mode or category of occupation' as it was used in *Fir Mill Ltd v Royton UDC and Jones (Valuation Officer)* (1960) 7 RRC 171, Lands Tribunal, must be taken as recognising that the formulation in *Fir Mill Ltd v Royton UDC and Jones (Valuation Officer)* supra is on the right lines, even if its precise scope has to be worked out on a case by case basis: *Williams v Scottish & Newcastle Retail Ltd* supra at [70].

As to the line taken in *Fir Mill Ltd v Royton UDC and Jones (Valuation Officer)* supra see also *R v Everist* (1847) 10 QB 178 at 182 per Lord Denman CJ; *Staley v Castleton Overseers* (1864) 33 LJMC 178 at 182 per Blackburn J; *R v Manchester and South Junction etc Rly Co* (1851) 17 LTOS 71; *Port of London Authority v Orsett Union Assessment Committee* [1920] AC 273 at 305, HL, per Lord Buckmaster; *Poplar Metropolitan Borough Assessment Committee v Roberts* [1922] 2 AC 93 at 103, HL, per Lord Buckmaster; *Townley Mill Co (1919) Ltd v Oldham Assessment Committee* [1937] AC 419 at 437, [1937] 1 All ER 11 at 19, HL, per Lord Maugham.

As to the line taken in the dictum in *Midland Bank Ltd v Lanham (Valuation Officer)* supra which has been disapproved see also *Henriques v Garland (Valuation Officer)* (1978) 20 RRC 341, Lands Tribunal; *S & P Jackson (Manchester) Ltd v Hill (Valuation Officer)* [1980] RA 195, Lands Tribunal; *Westminster City Council v British Telecommunications plc and Woolway (Valuation Officer)* [1985] RA 87, [1985] JPL 648, Lands Tribunal.

As to the effect of planning control on possible alternative uses see *London Transport Executive v Croydon London Borough Council and Phillips (Valuation Officer)* [1974] RA 225, Lands Tribunal; *Midland Bank Ltd v Lanham (Valuation Officer)* supra; *Henriques v Garland (Valuation Officer)* supra (all cases to be read in the light of *Williams v Scottish & Newcastle Retail Ltd* supra).

5 *Great Eastern Rly Co v Haughley* (1866) LR 1 QB 666 (applied in *Consett Iron Co Ltd v Assessment Committee for No 5 or North-Western Area of County of Durham* [1931] AC 396, HL); *R v Fletton Overseers* (1861) 30 LJMC 89. While premises are undergoing structural alterations, they must be valued in the state in which they are: *Hounslow London Borough Council v Rank Audio Visual Ltd and Browning (Valuation Officer)* (1970) 17 RRC 82, Lands Tribunal; *Paul Rocky & Co v Morley (Valuation Officer)* [1981] RA 208, Lands Tribunal.

Under the law as it stood before the passing of the Local Government Finance Act 1988, the prospect of demolition of the hereditament by an external authority during the currency of the hypothetical tenancy could be taken into account: *Dawkins (Valuation Officer) v Ash Bros and Heaton Ltd* [1969] 2 AC 366, [1969] 2 All ER 246, HL. Now, however, these cases have to be read in the light of the requirement in the Local Government Finance Act 1988 that some factors are taken as at the antecedent valuation date and others at the material day: see para 94 et seq post. It seems that future events which would not have affected value as at the antecedent valuation date (for example, a compulsory purchase order promoted well after the antecedent valuation date) are not to be taken into account: *Prodorite Ltd v Clark (Valuation Officer)* [1993] RA 197, Lands Tribunal. However, in *Berrill (t/a Cobweb Antiques) v Hill (Valuation Officer)* [2000] RA 194, Lands Tribunal, it was accepted that regard could be had to possible future changes in the scale of public works which were in progress at the date at which the ratepayer proposed a reduction but that the reduction made by the valuation officer for the effect of those works was held to be justified largely on the evidentiary basis of other agreements made between the valuation officer and the ratepayer or his agents in relation to nearby comparables.

6 See *Wexler v Playle (Valuation Officer)* [1960] 1 QB 217, [1960] 1 All ER 338, CA; *Saunders v Maltby (Valuation Officer)* [1976] RA 109, CA; *Civil Aviation Authority v Langford (Valuation Officer) and Camden London Borough Council* [1979] RA 1, Lands Tribunal (on appeal [1980] RA 369, CA); *Benjamin v Anston Properties Ltd* [1998] RA 53, [1998] 2 EGLR 147; *Murphy (Valuation Officer) v Courtney plc (formerly IAF Financial Services plc)* [1999] RA 1, Lands Tribunal.

7 See now the Local Government Finance Act 1988 Sch 6 para 2(1)(b), (8A) (both as added); and para 87 ante.

8 *Port of London Authority v Orsett Union Assessment Committee* [1920] AC 273 at 305, HL, per Lord Buckmaster; *Marr's Trustees v Ayrshire Assessor* (1934) 20 R & IT 355; *Liverpool Exchange Newsroom Co Ltd v Pritchard (Valuation Officer)* (1959) 4 RRC 374, Lands Tribunal; *Morley (Valuation Officer) v Society for Promoting Christian Knowledge* (1960) 53 R & IT 326, Lands Tribunal; *Black v Oliver* [1978] QB 870, [1978] 3 All ER 408, CA.

9 *Poplar Metropolitan Borough Assessment Committee v Roberts* [1922] 2 AC 93, HL (rent restrictions to be ignored); *McNamara v Dyer (Valuation Officer)* (1952) 45 R & IT 294, Lands Tribunal; *Jones v Tudge (Valuation Officer)* (1952) 45 R & IT 523, Lands Tribunal; *Oster v Gladwin (Valuation Officer)* (1957) 2 RRC 135, Lands Tribunal; *Whitter v Thornber (Valuation Officer)* [1965] RVR 807, 11 RRC 377, CA; *O'Mere v Burley (Valuation Officer)* (1968) 14 RRC 401, Lands Tribunal; *Orange PCS Ltd v Bradford (Valuation Officer)* [2004] EWCA Civ 155, [2004] 2 All ER 651, [2004] RA 61 (beneficial occupation of

the hereditament had a value, and the statutory right of the ratepayer to occupy the land without payment was not to be brought into account in determining that value).

10 *Robinson Bros (Brewers) Ltd v Durham County Assessment Committee (Area No 7)* [1938] AC 321 at 336–337, [1938] 2 All ER 79 at 85–86, HL, per Lord Macmillan; *Sunderland Overseers v Sunderland Union* (1865) 18 CBNS 531; *Burley (Valuation Officer) v A & W Birch Ltd* (1959) 5 RRC 147, Lands Tribunal; *Hemingway's Executors v Pulsford (Valuation Officer)* (1959) 53 R & IT 106, Lands Tribunal; *Evans (Valuation Officer) v Farley* (1972) 17 RRC 356, Lands Tribunal; *Eyston v Mundy (Valuation Officer)* [1978] RA 200, Lands Tribunal; *Byrne v Parker (Valuation Officer)* [1980] RA 45, CA; *S & P Jackson (Manchester) Ltd v Hill (Valuation Officer)* [1980] RA 195, Lands Tribunal.

92. Rent that a hypothetical tenant will pay. The hypothetical tenant[1] includes all persons who might possibly take the hereditament[2], including the person actually in occupation, even though he happens to be the owner of the hereditament[3]. The rent is that which he[4] will pay in the competitive market[5], taking into account every intrinsic quality of the hereditament[6] and all relevant[7] circumstances. If the occupier is the only possible tenant of a hereditament, his ability to pay is a relevant consideration[8].

1 For an early, possibly the first, use of the term 'hypothetical tenant' see *R v West Middlesex Waterworks* (1859) 28 LJMC 135 at 137.

Most of the cases cited in this paragraph were decided prior to the coming into force of the Local Government Finance Act 1988 and, therefore, must now be considered in relation to the non-domestic rating provisions in Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 93 et seq post). As to the historical development of rating law and the continuing relevance of the old case law to the current statutory regime see para 2 ante.

2 *Robinson Bros (Brewers) Ltd v Houghton and Chester-le-Street Assessment Committee* [1937] 2 KB 445, [1937] 2 All ER 298, CA (affd sub nom *Robinson Bros (Brewers) Ltd v Durham County Assessment Committee (Area No 7)* [1938] AC 321, [1938] 2 All ER 79, HL). A person who wants it as an adjunct to another hereditament is included: *R v London and North Western Rly Co* (1874) LR 9 QB 134; *Robinson Bros (Brewers) Ltd v Durham County Assessment Committee (Area No 7)* [1938] AC 321 at 338, [1938] 2 All ER 79 at 86, HL, per Lord Macmillan.

3 *R v London School Board* (1886) 17 QBD 738, CA; *LCC v Churchwardens etc of Erith and Dartford Union Assessment Committee* [1893] AC 562, HL; *Davies v Seisdon Union* [1908] AC 315, HL.

4 The test is what the tenant might be expected to pay, not what the landlord might be able to exact: *Poplar Metropolitan Borough Assessment Committee v Roberts* [1922] 2 AC 93 at 116, HL, per Lord Sumner. See also *Sandown Park Ltd v Esher UDC and Castle (Valuation Officer)* (1954) 47 R & IT 351, 367, CA.

5 *Talargoch Mining Co v St Asaph Union* (1868) LR 3 QB 478 at 486; *Mersey Docks and Harbour Board v Liverpool Overseers* (1873) LR 9 QB 84 at 96; *Robinson Bros (Brewers) Ltd v Houghton and Chester-le-Street Assessment Committee* [1937] 2 KB 445 at 470, [1937] 2 All ER 298 at 308, CA (affd sub nom *Robinson Bros (Brewers) Ltd v Durham County Assessment Committee (Area No 7)* [1938] AC 321, [1938] 2 All ER 79, HL).

6 *Robinson Bros (Brewers) Ltd v Houghton and Chester-le-Street Assessment Committee* [1937] 2 KB 445, [1937] 2 All ER 298, CA (affd sub nom *Robinson Bros (Brewers) Ltd v Durham County Assessment Committee (Area No 7)* [1938] AC 321, [1938] 2 All ER 79, HL). As to the application of the principle *rebus sic stantibus* see para 91 ante. If the hereditament affords the opportunity for the carrying on of a gainful trade, that fact may be taken into account: *Robinson Bros (Brewers) Ltd v Houghton and Chester-le-Street Assessment Committee* supra; *R v Grand Junction Rly Co* (1844) 4 QB 18 at 38; *Watney Mann Ltd v Langley (Valuation Officer)* [1966] 1 QB 457 at 476, [1963] 3 All ER 967 at 979. In *Cross (F) & Sons v Spencer (Valuation Officer)* [2000] RA 71, Lands Tribunal, it was held to be appropriate to make allowances for the poor location of the property and the fact that the ratepayer was the only likely tenant rather than relying, as the valuation officer had, on list assessments agreed for other car showrooms etc in the same area as demonstrating the established 'tone' for such establishments.

7 Ie affecting value: *Robinson Bros (Brewers) Ltd v Houghton and Chester-le-Street Assessment Committee* [1937] 2 KB 445 at 469, [1937] 2 All ER 298 at 307, CA (affd sub nom *Robinson Bros (Brewers) Ltd v Durham County Assessment Committee (Area No 7)* [1938] AC 321, [1938] 2 All ER 79, HL). See also *Staley v Castleton Overseers* (1864) 33 LJMC 178; *Harter v Salford Overseers* (1865) 34 LJMC 206; *Townley Mill Co (1919) Ltd v Oldham Assessment Committee* [1937] AC 419, [1937] 1 All ER 11, HL; cf *Hoyle and Jackson v Oldham Poor Law Union Assessment Committee and Churchwardens etc of Oldham* [1894] 2 QB 372, CA (effect of strike); *Consett Iron Co Ltd v Assessment Committee for No 5 or North-Western Area of County of Durham* [1931] AC 396, HL. For a recent case applying these principles see *Harrods Ltd v Baker (Valuation Officer)* [2007] RA 247, Lands Tribunal (appropriate rateable value for Harrods department store).

In valuing a hereditament it is legitimate to take into account its importance as an adjunct of another hereditament: *R v London and North-Western Rly Co* (1874) LR 9 QB 134; *Robinson Bros (Brewers) Ltd v*

Durham County Assessment Committee (Area No 7) [1938] AC 321 at 338, [1938] 2 All ER 79 at 86, HL, per Lord Macmillan; *Stafford v Sture (Valuation Officer)* (1959) 6 RRC 109, Lands Tribunal; *Coppin (Valuation Officer) v East Midlands Airport Joint Committee* (1970) 16 RRC 386, Lands Tribunal.

The existence of rating reliefs may affect the annual value of a hereditament: *Port of London Authority v Woolwich Corpn* [1924] 1 KB 30 at 49, CA, per Scrutton LJ.

The effect of temporary circumstances and nuisances which can be shown to affect value may be taken into account and examples of Lands Tribunal decisions include the following: *Baird v Wand (Valuation Officer)* (1960) 7 RRC 350 (effect of petrol rationing); *Lewis v Holman (Valuation Officer)* (1961) 9 RRC 116 (use of land adjoining hereditament for contractor's works for a year); *Heath v Holman (Valuation Officer) and Chorleywood UDC* (1961) 9 RRC 8, Lands Tribunal (laying of main sewer for six months did not affect value); *Price v Harrison* [1963] RA 412, Lands Tribunal (delay in completing estate road did not affect value). See also *Lillywhite v Baker (Valuation Officer)* (1967) 13 RRC 50; *Bradgate v Buncombe (Valuation Officer)* (1967) 13 RRC 347, Lands Tribunal; *Beath v Poole (Valuation Officer)* [1973] RA 411 (effect of motorway construction); *Fairhurst v Grice (Valuation Officer)* [1977] RA 246, Lands Tribunal. However, these cases now need to be read in the light of the requirement in the Local Government Finance Act 1988 that some factors are taken as at the antecedent valuation date and others at the material day: see para 94 et seq post. Cases which also need to be read in that light are those concerning anticipated circumstances: see e g *Railway Assessment Authority v Southern Rly Co* [1936] AC 266 at 285–286, [1936] 1 All ER 26 at 37–38, HL; *Joseph Jones & Co v West Derby Union* (1911) 75 JP 375; *Dawkins (Valuation Officer) v Ash Bros and Heaton Ltd* [1969] 2 AC 366, [1969] 2 All ER 246, HL, in which it was held that the prospect of the demolition of the hereditament for the purposes of a road scheme within a year could be taken into account, and a distinction was drawn between circumstances which are 'essential to' and 'accidental to' the hereditament. See also *King v Johnston (Valuation Officer)* (1957) 2 RRC 20, Lands Tribunal (redevelopment proposals ignored); *Ritchie v Brewin (Valuation Officer)* (1957) 2 RRC 342, Lands Tribunal (future road improvement ignored); *Burley (Valuation Officer) v A & W Birch Ltd* (1959) 5 RRC 147, Lands Tribunal (redevelopment scheme of landlord ignored); *Lloyd (Valuation Officer) v Rossleigh Ltd* [1962] RVR 249, CA (valuation not affected by planning proposals); *R v Paddington Valuation Officer, ex p Peachey Property Corpn Ltd* [1964] 3 All ER 200, [1964] 1 WLR 1186 (affd [1966] 1 QB 380, [1965] 2 All ER 836, CA). See also *Prodorite Ltd v Clark (Valuation Officer)* [1993] RA 197, Lands Tribunal; and *Berrill (t/a Cobweb Antiques) v Hill (Valuation Officer)* [2000] RA 194, Lands Tribunal (both cases cited in para 91 ante).

8 *Tomlinson (Valuation Officer) v Plymouth Argyle Football Co Ltd* (1960) 6 RRC 173, CA. Ability to pay has been considered in a number of Lands Tribunal decisions including the following: *Blackman (Valuation Officer) v Lowe and Tavistock RDC* (1957) 3 RRC 1, Lands Tribunal; *Hitchin Town Football Club v Wallace (Valuation Officer)* [1961] RVR 462, Lands Tribunal; *Sussex Motor Yacht Club Ltd v Gilmore (Valuation Officer)* [1966] RA 43, Lands Tribunal; *Heaton Cricket Club v Westwood (Valuation Officer)* (1959) 5 RRC 98, Lands Tribunal; *Magdalen, Jesus and Keble Colleges, Oxford v Howard (Valuation Officer) and City of Oxford* (1959) 5 RRC 122, Lands Tribunal (on appeal [1961] RVR 22, CA); *Marylebone Cricket Club v Morley (Valuation Officer)* (1959) 6 RRC 258, Lands Tribunal; *Shrewsbury Schools v Shrewsbury Borough Council and Plumpton (Valuation Officer)* (1960) 7 RRC 313, Lands Tribunal; *Leeds University v Leeds City Council and Burge (Valuation Officer)* [1962] RA 177, Lands Tribunal; *Addington Community Association v Croydon Corpn and Gudgion (Valuation Officer)* (1967) 13 RRC 126, Lands Tribunal; *Co-operative Retail Services Ltd v Oates (Valuation Officer)* [1995] RA 151, Lands Tribunal. See also *Cardiff Corpn v Williams (Valuation Officer)* [1973] RA 46, 18 RRC 1, CA; and *Eastbourne Borough Council v Allen (Valuation Officer)* [2001] RA 273, Lands Tribunal.

93. Assumption that hereditament is vacant and to let. In estimating the hypothetical rent, the hereditament is assumed to be vacant and to let[1].

1 *LCC v Churchwardens etc of Erith Parish and Dartford Union Assessment Committee* [1893] AC 562 at 588, HL, per Lord Herschell LC; *Humber Ltd v Jones (Valuation Officer)* (1960) 6 RRC 161, CA; *R v Paddington Valuation Officer, ex p Peachey Property Corpn* [1966] 1 QB 380 at 412, [1965] 2 All ER 836 at 848, CA, per Lord Denning MR; *Wyre Forest District Council v Stokes (Valuation Officer)* [1974] RA 361, Lands Tribunal. It is to be assumed, in the case of business premises, that the previous business has closed and any process machinery been removed: *Fir Mill Ltd v Royton UDC and Jones (Valuation Officer)* (1960) 7 RRC 171, Lands Tribunal.

The cases cited in this paragraph were decided prior to the coming into force of the Local Government Finance Act 1988 and, therefore, must now be considered in relation to the non-domestic rating provisions in Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 94 et seq post). As to the historical development of rating law and the continuing relevance of the old case law to the current statutory regime see para 2 ante.

B. THE DATE OF VALUATION

94. Date of valuation for purpose of compiling or altering rating lists. Each successive rating list has a single valuation date[1]. That date is either: (1) the day on which the list must be compiled[2] (or, in the case of an alteration to a list, the day on which the list came into force[3]); or (2) such day preceding that day as may be specified by the Secretary of State (or the Welsh Ministers, as the case may be)[4] by order in relation to the list[5].

In determining the rateable value of non-domestic hereditaments, the following factors[6] must be taken into account:

(a) matters affecting the physical state or physical enjoyment of the hereditament[7];
(b) the mode or category of occupation of the hereditament[8];
(c) the quantity of minerals or other substances in or extracted from the hereditament[9];
(d) the quantity of refuse or waste material which is brought onto and permanently deposited on the hereditament[10];
(e) matters affecting the physical state of the locality in which the hereditament is situated or which, though not affecting the physical state of the locality, are nonetheless physically manifest there[11]; and
(f) the use or occupation of other premises situated in the locality of the hereditament[12].

Where the rateable value is determined for the purposes of compiling a list by reference to a day specified by order[13], the matters mentioned in heads (a) to (f) above must be taken to be as they are assumed to be on the day on which the list must be compiled[14]. Where the rateable value is determined with a view to making an alteration to a list which has been compiled (whether or not it is still in force) the matters mentioned in heads (a) to (f) above must be taken to be as they are assumed to be on the material day[15].

1 As to the principles which underlie the concept of a common valuation date see *K Shoe Shops Ltd v Hardy (Valuation Officer)* [1983] 3 All ER 609, [1983] 1 WLR 1273, HL. As to the compilation of local non-domestic rating lists see para 121 post; and as to the compilation of central non-domestic rating lists see para 125 post.

2 Local Government Finance Act 1988 s 56(1), Sch 6 para 2(3)(a).

The Local Government Finance Act 1988 Sch 6 (as amended) has effect to determine the rateable value of non-domestic hereditaments for the purposes of Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 95 et seq post): Sch 6 para 1 (amended by the Local Government and Housing Act 1989 ss 139, 194, Sch 5 paras 38, 79(3), Sch 12 Pt II). For these purposes, references to the non-domestic use of property are references to use otherwise than in such manner as to constitute the property domestic property: Local Government Finance Act 1988 Sch 6 para 2(13) (added by the Local Government and Housing Act 1989 Sch 5 paras 38, 79(3)). For the meaning of 'hereditament' see para 33 et seq ante; and for the meaning of 'domestic property' in relation to non-domestic rating see para 120 post.

3 Local Government Finance Act 1988 Sch 6 para 2(4)(a).

4 As to the Secretary of State and the Welsh Ministers see para 3 ante.

5 Local Government Finance Act 1988 Sch 6 para 2(3)(b), (4)(b). If a day is specified under the Sch 6 para 2(3)(b) (i e for the purposes of compiling the list), the same specification must be made in relation to all lists to be compiled on the same day: Sch 6 para 2(10).

As to the making of orders under the Local Government Finance Act 1988 generally see para 3 ante. As to the orders made under Sch 6 para 2(3)(b) see the Rating Lists (Valuation Date) (Wales) Order 2007, SI 2007/3153; and the Rating Lists (Valuation Date) (England) Order 2008, SI 2008/216. Accordingly, in relation both to England and to Wales, 1 April 2008 is specified as the day by reference to which the rateable values of non-domestic hereditaments are to be determined for the purposes of the local and central non-domestic rating lists which are to be compiled for England and for Wales (as the case may be) on 1 April 2010: see the Rating Lists (Valuation Date) (Wales) Order 2007, SI 2007/3153, art 2; and the Rating Lists (Valuation Date) (England) Order 2008, SI 2008/216, art 2. For the meanings of 'England' and 'Wales' see para 1 note 2 ante.

6 The line between physical and other factors is not always easily drawn: see e g *Shearson Lehman Bros Ltd v Humphrys (Valuation Officer)* [1991] RA 125, [1991] EGLR 224, Lands Tribunal; *Jafton Properties Ltd v Prisk (Valuation Officer)* [1997] RA 137, Lands Tribunal. In *Walker (Valuation Officer) v Railex Systems Ltd* [1993] RA 55, Lands Tribunal, the parties agreed, and the tribunal accepted, that no account was to be taken of the Town and Country Planning (Use Classes) Order 1987, SI 1987/764 (as amended) (see TOWN AND COUNTRY PLANNING vol 46(1) (Reissue) para 224 et seq), in order to anticipate a future change of use because that Order had not been in force on 1 April 1973 (the date by reference to which the valuation was carried out).

7 Local Government Finance Act 1988 Sch 6 para 2(7)(a). As to the assumption to be made as to the state of repair of a hereditament at any time relevant for the purposes of a list see Sch 6 para 2(8A) (as added); and para 87 ante.

The wording of heads (a) and (b) in the text has been cited to confirm the two limbs of the *rebus sic stantibus* principle (which is used to assess the hypothetical rent on the hereditament from which its rateable value is determined): see *Williams v Scottish & Newcastle Retail Ltd* [2001] EWCA Civ 185, [2001] RA 41, (2001) Times, 6 March; and para 91 ante.

The wording of heads (a) and (e) in the text is similar to the wording of the Local Government Finance Act 1988 s 121(1)(a), (b), which: (1) was enacted to amend the old law (contained in the General Rate Act 1967 s 20 (repealed)) in order to restrict the effect of the decision in *Clement (Valuation Officer) v Addis Ltd* [1988] 1 All ER 593, [1988] 1 WLR 301, HL; and (2) reflects and is consistent with the reasoning of the Court of Appeal in *Addis Ltd v Clement (Valuation Officer)* (1987) 85 LGR 489, [1987] RA 1, CA. The Local Government Finance Act 1988 s 121(1) applies to any change in the state of the hereditament or the state of the locality in which the hereditament is situated which has occurred since the time by reference to which the value of the hereditament is to be ascertained, other than one relating to a factor which is a relevant factor within the meaning of the General Rate Act 1967 s 20(1) (repealed): Local Government Finance Act 1988 s 121(2). This provision has effect in relation to any proposal made on or after 10 March 1988 which was outstanding on the passing of the Local Government Finance Act 1988 (i e 29 July 1988) but has no effect in relation to any proposal made before 10 March 1988: s 121(3).

8 Ibid Sch 6 para 2(7)(b). See also note 7 supra.

9 Ibid Sch 6 para 2(7)(c).

10 Ibid Sch 6 para 2(7)(cc) (added by the Local Government and Housing Act 1989 Sch 5 paras 38, 79(3)).

11 Local Government Finance Act 1988 Sch 6 para 2(7)(d). Cf the wording used to similar effect in the Local Government Finance Act 1992 s 24 (as amended) (cited in para 273 post) for the purposes of council tax. For cases as to 'locality' under the Local Government Finance Act 1988 Sch 6 para 2(7)(d) see *K Shoe Shops Ltd v Hardy (Valuation Officer)* [1983] 3 All ER 609, [1983] 1 WLR 1273, HL; and *Jafton Properties Ltd v Prisk (Valuation Officer)* [1997] RA 137, Lands Tribunal.

12 Local Government Finance Act 1988 Sch 6 para 2(7)(e). See also note 7 supra.

13 Ie under ibid Sch 6 para 2(3)(b) (see head (2) in the text): see Sch 6 para 2(5).

14 Ibid Sch 6 para 2(5).

15 Ibid Sch 6 para 2(6) (amended by the Local Government and Housing Act 1989 Sch 5 paras 38, 79(3)). For these purposes, the material day is such day as is determined in accordance with rules prescribed by regulations made by the Secretary of State (or the Welsh Ministers, as the case may be): Local Government Finance Act 1988 Sch 6 para 2(6A) (added by the Local Government and Housing Act 1989 Sch 5 paras 38, 79(3), Sch 12; substituted by the Local Government Finance Act 1992 s 104, Sch 10 para 4). As to the material day for these purposes see the Non-Domestic Rating (Material Day for List Alterations) Regulations 1992, SI 1992/556 (as amended); and para 95 post.

95. The material day for list alterations. Where the rateable value of non-domestic hereditaments is to be determined[1] with a view to making an alteration to a rating list which has been compiled[2] (whether or not it is still in force), the factors to be considered[3] must be taken to be as they are assumed to be on the material day[4], being such day as is determined in accordance with rules prescribed by regulations[5] made by the Secretary of State (or the Welsh Ministers, as the case may be)[6].

Accordingly, where the determination is with a view to making an alteration to correct an inaccuracy in the list on the day on which it was compiled, the material day is the day on which the list was compiled[7]. Where the determination is with a view to making an alteration to correct an inaccuracy in the list which arose in the course of making a previous alteration, or is occasioned by a proposal disputing the accuracy of a previous alteration, the material day is the day by reference to which the factors to be

considered[8] fell to be assessed when determining the rateable value with a view to making the alteration which gave rise to the inaccuracy or the accuracy of which is disputed[9].

Where the determination is with a view to making an alteration so as to show in (or delete from) the list any hereditament which:

(1) has come into existence or ceased to exist[10];
(2) has ceased to be (or become) domestic property[11] or property exempt[12] from non-domestic rating[13];
(3) has ceased to be (or become) required to be shown in the central non-domestic rating list[14]; or
(4) has ceased to be (or come to form) part of the relevant authority's[15] area by virtue of a change in that area[16],

the material day is[17] the day on which the circumstances giving rise to the alteration occurred[18]. However, where a completion notice[19] has been served in relation to a building which constitutes or includes the hereditament in question, and the notice has not been withdrawn[20], the material day is: (a) the day proposed in the notice as the completion day in relation to the building[21]; or (b) where a completion day has been agreed or determined[22], the day so agreed or determined[23].

Where the determination is with a view to making an alteration to the list to reflect part of a hereditament becoming, or ceasing to be, domestic property or exempt, the material day is the day on which the circumstances giving rise to the alteration occurred[24].

In any other case, and where the determination is with a view to making an alteration to a list compiled before 1 April 2005, the material day is the day on which the proposal for the alteration in respect of which a determination falls to be made is served on the valuation officer[25] or, where there is no such proposal, the day on which the valuation officer alters the list[26]. Where the determination is with a view to making an alteration to a list compiled on or after 1 April 2005[27], the material day is: (i) where the alteration is made in pursuance of a proposal, the day on which the proposal was served on the valuation officer[28]; (ii) where the alteration is not made in pursuance of a proposal[29], the day on which the circumstances giving rise to the alteration occurred (if the day on which the circumstances giving rise to the alteration is reasonably ascertainable)[30] or the day on which the valuation officer alters the list (if that day is not reasonably ascertainable)[31].

1 Ie in accordance with the Local Government Finance Act 1988 s 56(1), Sch 6 (as amended): see para 87 et seq ante. For the meaning of 'hereditament' see para 33 et seq ante.
2 As to the compilation of local non-domestic rating lists see para 121 post; as to the compilation of central non-domestic rating lists see para 125 post; and as to the alteration of rating lists see para 128 et seq post.
3 Ie under the Local Government Finance Act 1988 Sch 6 para 2(7) (as amended): see para 94 ante.
4 See ibid Sch 6 para 2(6) (as amended); and para 94 ante.
5 'Prescribed' in the context of regulations, means prescribed by the regulations: ibid s 146(6). As to the making of regulations under the Local Government Finance Act 1988 generally see para 3 ante.
6 See ibid Sch 6 para 2(6A) (as added and substituted); and para 94 ante. Accordingly, for the purposes of Sch 6 para 2(6) (as amended), the material day is to be determined in accordance with the Non-Domestic Rating (Material Day for List Alterations) Regulations 1992, SI 1992/556, reg 3(2)–(7) (as amended) (see the text and notes 7–31 infra): reg 3(1). As to the Secretary of State and the Welsh Ministers see para 3 ante.
7 Ibid reg 3(2).
8 Ie under the Local Government Finance Act 1988 Sch 6 para 2(7) (as amended) (see para 94 ante): see the Non-Domestic Rating (Material Day for List Alterations) Regulations 1992, SI 1992/556, reg 3(3).
9 Ibid reg 3(3).
10 Ibid reg 3(4)(a). The reference in reg 3(4) to a hereditament coming into existence or ceasing to exist includes a reference to a hereditament which comes into existence or ceases to exist by virtue of: (1) property previously rated as a single hereditament becoming liable to be rated in parts (reg 3(8)(a)); or (2)

property previously liable to be rated in parts becoming liable to be rated as a single hereditament (reg 3(8)(b)); or (3) any part of a hereditament becoming part of a different hereditament (reg 3(8)(c)).

11 For the meaning of 'domestic property' in relation to non-domestic rating see para 120 post.

12 As to exemptions from non-domestic rating see para 37 et seq ante.

13 Non-Domestic Rating (Material Day for List Alterations) Regulations 1992, SI 1992/556, reg 3(4)(b).

14 Ibid reg 3(4)(c).

15 The relevant authority in relation to a hereditament means: (1) in respect of a day falling before 1 April 1993, the charging authority; or (2) in respect of any other day, the billing authority in whose area the hereditament is situated: ibid reg 2. As to billing authorities see para 5 ante. Each of the following is a 'charging authority' for the purposes of the Local Government Finance Act 1988: (a) a district council; (b) a London borough council; (c) the Common Council of the City of London; and (d) the Council of the Isles of Scilly: s 144(1). As to local government areas and authorities in England and their councils generally see LOCAL GOVERNMENT vol 29(1) (Reissue) para 25 et seq; and as to local government areas and authorities in Wales and their councils generally see LOCAL GOVERNMENT vol 29(1) (Reissue) para 41 et seq. As to London boroughs and their councils see LOCAL GOVERNMENT vol 29(1) (Reissue) para 24 et seq; and LONDON GOVERNMENT vol 29(2) (Reissue) para 30 et seq. As to the Common Council of the City of London see LONDON GOVERNMENT vol 29(2) (Reissue) para 51 et seq.

16 Non-Domestic Rating (Material Day for List Alterations) Regulations 1992, SI 1992/556, reg 3(4)(d).

17 Ie subject to ibid reg 3(5) (see the text and notes 19–23 infra): see reg 3(4).

18 Ibid reg 3(4). For an alteration which has effect under the Non-Domestic Rating (Alteration of Lists and Appeals) Regulations 1993, SI 1993/291 (revoked), the material day is 31 March 2000: Non-Domestic Rating (Material Day for List Alterations) Regulations 1992, SI 1992/556, reg 3(4A) (added in relation to England only by SI 2005/658).

19 Ie under the Local Government Finance Act 1988 s 46A (as added), Sch 4A para 1 (as added and amended) (see para 65 ante): see the Non-Domestic Rating (Material Day for List Alterations) Regulations 1992, SI 1992/556, reg 3(5).

20 Ibid reg 3(5).

21 Ibid reg 3(5)(a).

22 Ie in accordance with the Local Government Finance Act 1988 Sch 4A para 3 or Sch 4A para 4 (as added and amended) (see para 68 ante): see the Non-Domestic Rating (Material Day for List Alterations) Regulations 1992, SI 1992/556, reg 3(5)(b).

23 Ibid reg 3(5)(b).

24 Ibid reg 3(6).

25 As to valuation officers see para 6 ante.

26 Non-Domestic Rating (Material Day for List Alterations) Regulations 1992, SI 1992/556, reg 3(7)(a) (reg 3(7) substituted in relation to England only by SI 2005/658; in relation to Wales only by SI 2005/758).

27 Non-Domestic Rating (Material Day for List Alterations) Regulations 1992, SI 1992/556, reg 3(7)(b) (as substituted: see note 26 supra).

28 Ibid reg 3(7)(b)(i) (as substituted: see note 26 supra).

29 Ibid reg 3(7)(b)(ii) (as substituted: see note 26 supra).

30 Ibid reg 3(7)(b)(ii)(aa) (as substituted: see note 26 supra).

31 Ibid reg 3(7)(b)(ii)(bb) (as substituted: see note 26 supra).

C. DETERMINING RATEABLE VALUES FOR SPECIFIED HEREDITAMENTS

(A) Regulation-making Powers

96. Power to prescribe assumptions or principles in determining the rateable value. The Secretary of State (or the Welsh Ministers, as the case may be)[1] may make regulations[2] providing that, in applying the main provisions of the Local Government Finance Act 1988 to determine the rateable value of non-domestic hereditaments[3] in relation to a hereditament of a prescribed[4] class, prescribed assumptions (as to the hereditament or otherwise) are to be made[5]. For these purposes, a class may be prescribed by reference to such factors as the Secretary of State (or the Welsh Ministers, as the case may be) sees fit[6], and without prejudice to this, a class may be prescribed by reference to one or more of the following factors[7], namely: (1) the physical characteristics of hereditaments[8]; (2) the fact that hereditaments are unoccupied or are occupied for prescribed purposes or by persons of prescribed descriptions[9].

The Secretary of State (or the Welsh Ministers, as the case may be) may also make regulations providing that in arriving at an amount for the rateable value of a non-domestic hereditament[10] prescribed principles are to be applied[11]; and the regulations may include provision for the preservation of such principles, privileges, and provisions for the making of valuations on exceptional principles, as apply or applied for the purposes of the General Rate Act 1967 (now repealed)[12].

1 As to the Secretary of State and the Welsh Ministers see para 3 ante.

2 As to the making of regulations under the Local Government Finance Act 1988 generally see para 3 ante; and see notes 4–5, 11 infra.

3 Ie the Local Government Finance Act 1988 s 56(1), Sch 6 para 2(1)–(7) (as amended) (see para 87 et seq ante): see Sch 6 para 2(8) (as amended: see note 5 infra).

The Local Government Finance Act 1988 Sch 6 (as amended) has effect to determine the rateable value of non-domestic hereditaments for the purposes of Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 97 et seq post): Sch 6 para 1 (amended by the Local Government and Housing Act 1989 ss 139, 194, Sch 5 paras 38, 79(3), Sch 12 Pt II). For these purposes, references to the non-domestic use of property are references to use otherwise than in such manner as to constitute the property domestic property: Local Government Finance Act 1988 Sch 6 para 2(13) (added by the Local Government and Housing Act 1989 Sch 5 paras 38, 79(3)). For the meaning of 'hereditament' see para 33 et seq ante; and for the meaning of 'domestic property' in relation to non-domestic rating see para 120 post.

4 'Prescribed' in the context of regulations, means prescribed by the regulations: Local Government Finance Act 1988 s 146(6). See note 5 infra.

5 Ibid Sch 6 para 2(8) (amended by the Local Government and Housing Act 1989 Sch 5 paras 38, 79(3)).

As to the regulations made under the Local Government Finance Act 1988 Sch 6 para 2(8) (as amended), see the Non-Domestic Rating (Miscellaneous Provisions) Regulations 1989, SI 1989/1060 (amended by SI 1989/2303; SI 1993/616; SI 1996/619) (see para 104 et seq post); the Non-Domestic Rating (Miscellaneous Provisions) (No 2) Regulations 1989, SI 1989/2303 (amended by SI 1991/2906; SI 1993/544; SI 1993/616; SI 1994/3122; in relation to England only by SI 2000/532; SI 2004/1494; in relation to Wales only by SI 2000/908; SI 2004/1000) (see para 101 et seq post); the Valuation for Rating (Former Enterprise Zones) Regulations 1995, SI 1995/213 (see para 107 post); the Valuation for Rating (Plant and Machinery) (England) Regulations 2000, SI 2000/540 (amended by SI 2001/846) (see para 103 post); and the Valuation for Rating (Plant and Machinery) (Wales) Regulations 2000, SI 2000/1097 (amended by SI 2001/2357) (see para 103 post).

6 Local Government Finance Act 1988 Sch 6 para 2(11) (Sch 6 para 2(11), (12) added by the Local Government and Housing Act 1989 Sch 5 paras 38, 79(3)). See note 5 supra.

7 Local Government Finance Act 1988 Sch 6 para 2(12) (as added: see note 6 supra). See note 5 supra.

8 Ibid Sch 6 para 2(12)(a) (as added: see note 6 supra). See note 5 supra.

9 Ibid Sch 6 para 2(12)(b) (as added: see note 6 supra). See note 5 supra.

10 Ie under ibid Sch 6 para 2(1) (as amended), Sch 6 para 2(1A) (as added) or Sch 6 para 2(1B) (as added) (see para 87 ante): see Sch 6 para 2(9) (as amended: see note 11 infra).

11 Ibid Sch 6 para 2(9) (amended by the Local Government and Housing Act 1989 Sch 5 paras 38, 79(3)).

As to the regulations made under the Local Government Finance Act 1988 Sch 6 para 2(9) (as amended), see the Non-Domestic Rating (Miscellaneous Provisions) Regulations 1989, SI 1989/1060 (as amended: see note 5 supra) (see para 104 post); and the Non-Domestic Rating (Miscellaneous Provisions) (No 2) Regulations 1989, SI 1989/2303 (as amended: see note 5 supra) (see para 101 et seq post).

12 Local Government Finance Act 1988 Sch 6 para 2(9) (as amended: see note 11 supra). See note 11 supra. As to the historical development of rating law see para 2 ante.

97. Power to make special provision made as to rateable value for certain hereditaments. The rateable value of any hereditament[1], the whole or any part of which consists in buildings which are both used for the breeding and rearing of horses or ponies (or for either of those purposes)[2], and are occupied together with any agricultural land[3] or agricultural building[4], is taken to be the amount determined under the usual statutory provisions governing the determination of rateable value[5] less whichever is the smaller of the following two amounts[6], namely: (1) such amount as the Secretary of State (or the Welsh Ministers, as the case may be)[7] may by order specify for these purposes[8]; and (2) the amount which would be determined[9] in respect of so much of the hereditament as consists of buildings so used and occupied[10].

In circumstances where:

(a) the rateable value of a hereditament consisting of an area of a caravan site[11] is determined with a view to making an alteration to a list which has been compiled (whether or not it is still in force)[12];

(b) the area is treated as one hereditament[13];

(c) immediately before the day the alteration is entered in the list (or, if the alteration is made in pursuance of a proposal, the day the proposal is made), the list includes a hereditament consisting of an area of the caravan site treated in this way as one hereditament[14]; and

(d) the area mentioned in head (b) above and the area mentioned in head (c) above are wholly or partly the same[15],

then, in relation to a caravan pitch which is included both in the area mentioned in head (b) above and in the area mentioned in head (c) above, the nature of the caravan on the pitch and the physical state of that caravan[16] must be taken to be as they were assumed to be for the purposes of determining the rateable value of the hereditament mentioned in head (c) above when that rateable value was last determined[17]. Accordingly, the usual factors to be considered under statute[18] do not apply for these purposes as respects the nature of the caravan on the pitch and the physical state of that caravan[19].

Where a hereditament consists wholly or in part of land on which a right of sporting[20] is exercisable[21], and the right is not severed from the occupation of the land[22], then, for the purposes of determining the rateable value of the hereditament[23], the rent at which the hereditament might reasonably be expected to let is to be estimated as if the right of sporting did not exist[24].

1 The Local Government Finance Act 1988 Sch 6 (as amended) has effect to determine the rateable value of non-domestic hereditaments for the purposes of Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 98 et seq post): Sch 6 para 1 (amended by the Local Government and Housing Act 1989 ss 139, 194, Sch 5 paras 38, 79(3), Sch 12 Pt II). For these purposes, references to the non-domestic use of property are references to use otherwise than in such manner as to constitute the property domestic property: Local Government Finance Act 1988 Sch 6 para 2(13) (added by the Local Government and Housing Act 1989 Sch 5 paras 38, 79(3)). For the meaning of 'hereditament' see para 33 et seq ante; and for the meaning of 'domestic property' in relation to non-domestic rating see para 120 post.

2 See the Local Government Finance Act 1988 Sch 6 para 2A(1)(a), (2) (Sch 6 paras 2A, 2B both added by the Local Government and Housing Act 1989 s 139, Sch 5 paras 38(11), 79(3)).

3 For these purposes, 'agricultural land' means any land of more than two hectares which is agricultural land within the meaning of the Local Government Finance Act 1988 s 51, Sch 5 para 2 (see para 44 ante) and is not land used exclusively for the pasturing of horses or ponies: Sch 6 para 2A(3) (as added: see note 2 supra).

4 See ibid Sch 6 para 2A(1)(b), (2) (as added: see note 2 supra). For the meaning of 'agricultural building' see Sch 5 paras 3–7 (as amended) (see para 45 et seq ante); definition applied by Sch 6 para 2A(3) (as so added).

5 Ie under ibid Sch 6 para 2 (as amended) (see paras 87–96 ante): see Sch 6 para 2A(2) (as added: see note 2 supra).

6 See ibid Sch 6 para 2A(2) (as added: see note 2 supra).

7 As to the Secretary of State and the Welsh Ministers see para 3 ante.

8 Local Government Finance Act 1988 Sch 6 para 2A(2)(a) (as added: see note 2 supra). As to the making of orders under the Local Government Finance Act 1988 generally see para 3 ante. Under the orders so made, £2,500 is specified for the purposes of Sch 6 para 2A(2)(a) (as added) in relation to Wales: see the Non-Domestic Rating (Stud Farms) Order 1989, SI 1989/2331, art 2 (revoked in relation to England by SI 2001/2586). In respect of the rateable value of any hereditament shown in a non-domestic rating list compiled in relation to England on or after 1 April 2005, £3,500 is the amount specified for the purposes of the Local Government Finance Act 1988 Sch 6 para 2A(2)(a) (as added): see the Non-Domestic Rating (Stud Farms) (England) Order 2004, SI 2004/3151, arts 1–2. As to the compilation of local non-domestic rating lists see para 121 post; as to the compilation of central non-domestic rating lists see para 125 post; and as to the alteration of rating lists see para 128 et seq post.

9 Ie under the Local Government Finance Act 1988 Sch 6 para 2 (as amended) (see paras 87–96 ante) but for Sch 6 para 2A (as added): see Sch 6 para 2A(2)(b) (as added: see note 2 supra).

10 Ibid Sch 6 para 2A(2)(b) (as added: see note 2 supra).

11 For these purposes, 'caravan site' means any land in respect of which a site licence is required under the Caravan Sites and Control of Development Act 1960 Pt I (ss 1–30) (as amended) (see TOWN AND COUNTRY PLANNING vol 46(3) (Reissue) para 1033), or would be so required if s 2, Sch 1 paras 4, 11 (exemption of certain land) (see TOWN AND COUNTRY PLANNING vol 46(3) (Reissue) para 1036) were omitted: see the Local Government Finance Act 1988 Sch 6 para 2B(5) (as added: see note 2 supra). 'Caravan' has the same meaning as it has for the purposes of the Caravan Sites and Control of Development Act 1960 Pt I (as amended) (see TOWN AND COUNTRY PLANNING vol 46(3) (Reissue) para 1033): Local Government Finance Act 1988 Sch 6 para 2B(5) (as so added). As to the rating of caravan sites generally see paras 35–36 ante.

12 Ibid Sch 6 para 2B(1)(a) (as added: see note 2 supra).

13 Ibid Sch 6 para 2B(1)(b) (as added: see note 2 supra). The text refers to an area treated as one hereditament by virtue of regulations under s 64(3)(b) (see para 33 ante): see Sch 6 para 2B(1)(b) (as so added).

14 Ibid Sch 6 para 2B(1)(c) (as added: see note 2 supra). The text refers to an area of the caravan site treated as one hereditament by virtue of regulations under s 64(3)(b) (see para 33 ante): see Sch 6 para 2B(1)(c) (as so added).

15 Ibid Sch 6 para 2B(1)(d) (as added: see note 2 supra).

16 See ibid Sch 6 para 2B(2), (4) (as added: see note 2 supra).

17 See ibid Sch 6 para 2B(2), (3) (as added: see note 2 supra).

18 Ie under ibid Sch 6 para 2(7) (as amended), by virtue of Sch 6 para 2(6) (as amended) (see para 94 ante): see Sch 6 para 2B(2) (as added: see note 2 supra).

19 See ibid Sch 6 para 2B(2) (as added: see note 2 supra).

20 For these purposes, 'right of sporting' means a right of fowling, shooting, taking or killing game or rabbits, or fishing: ibid Sch 6 para 2C(3) (Sch 6 para 2C added by the Local Government and Rating Act 1997 s 2(5)).

21 Local Government Finance Act 1988 Sch 6 para 2C(1)(a) (as added: see note 20 supra).

22 Ibid Sch 6 para 2C(1)(b) (as added: see note 20 supra).

23 Ie under ibid Sch 6 para 2 (as amended) (see paras 87–96 ante): see Sch 6 para 2C(2) (as added: see note 20 supra).

24 Ibid Sch 6 para 2C(2) (as added: see note 20 supra).

98. Power to make special provision as to rateable value for hereditaments. Until a day to be appointed, the following provisions have effect[1].

The Secretary of State (or the Welsh Ministers, as the case may be)[2] may by order[3] provide that, in the case of a non-domestic hereditament[4] of such class as may be prescribed, the usual statutory provisions governing the determination of rateable value[5] do not apply, and that its rateable value is to be determined in accordance with prescribed rules instead ('valuation by formula')[6]. For these purposes, a class may be prescribed by reference to such factors as the Secretary of State (or the Welsh Ministers, as the case may be) sees fit[7] and, without prejudice to this, a class may be prescribed by reference to one or more of the following factors[8]: (1) the physical characteristics of hereditaments[9]; (2) the fact that hereditaments are unoccupied or are occupied for prescribed purposes or by persons of prescribed descriptions[10].

In the case of non-domestic hereditaments to be shown[11] in a central non-domestic rating list[12], the Secretary of State (or the Welsh Ministers, as the case may be) may also by order provide that the usual statutory provisions[13] do not apply, and that their rateable value is to be specified in the order or determined in accordance with prescribed rules instead[14]. There are no restrictions on the methods which the Secretary of State (or the Welsh Ministers, as the case may be) might employ in arriving at a figure so specified[15].

1 The Local Government Finance Act 1988 s 56(1), Sch 6 para 3 (as amended) is repealed by the Local Government Act 2003 ss 69, 127(2), Sch 8 Pt 1 as from a day to be appointed under s 128(6). However, at the date at which this volume states the law, no such day had been appointed.

The Local Government Finance Act 1988 Sch 6 (as amended) has effect to determine the rateable value of non-domestic hereditaments for the purposes of Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 99 et seq post): Sch 6 para 1 (amended by the Local Government and Housing Act 1989 ss 139, 194, Sch 5 paras 38, 79(3), Sch 12 Pt II). For these purposes, references to the non-domestic use of property are references to use otherwise than in such manner as to constitute the property domestic property: Local Government Finance Act 1988 Sch 6 para 2(13) (added by the Local Government and

Housing Act 1989 Sch 5 paras 38, 79(3)). For the meaning of 'hereditament' see note 4 infra; and for the meaning of 'domestic property' in relation to non-domestic rating see para 120 post.

2 As to the Secretary of State and the Welsh Ministers see para 3 ante.

3 The power to make an order under the Local Government Finance Act 1988 Sch 6 para 3 (as amended; prospectively repealed) is exercisable by statutory instrument, and no such order may be made unless a draft of it has been laid before and approved by resolution of each House of Parliament: s 143(8). If an order under Sch 6 para 3 (as amended; prospectively repealed) would, apart from this provision, be treated for the purposes of the standing orders of either House of Parliament as a hybrid instrument, it must proceed in that House as if it were not such an instrument: s 143(11). As to the making of subordinate legislation by the Welsh Ministers under the Local Government Finance Act 1988 see para 3 note 15 ante. As from a day to be appointed under the Local Government Act 2003 s 128(6), the Local Government Finance Act 1988 s 143(8), (11) is repealed by the Local Government Act 2003 Sch 8 Pt 1. However, at the date at which this volume states the law, no such day had been appointed.

4 For the meaning of 'hereditament' see para 33 et seq ante.

5 Ie the Local Government Finance Act 1988 Sch 6 para 2 (as amended) (see paras 87–96 ante), Sch 6 paras 2A–2C (as added) (see para 97 ante): see Sch 6 para 3(1) (as amended: see note 6 infra). See note 1 supra.

6 Ibid Sch 6 para 3(1) (Sch 6 para 3(1), (2) amended by the Local Government and Housing Act 1989 s 139, Sch 5 paras 38(12), (13), 79(3); and by the Local Government and Rating Act 1997 s 2(6)). See note 1 supra. 'Prescribed' in the context of an order, means prescribed by the order: Local Government Finance Act 1988 s 146(6). See note 3 supra. As to the orders made under Sch 6 para 3(1) (as amended) see the Electricity Supply Industry (Rateable Values) (England) Order 2000, SI 2000/947; the Docks and Harbours (Rateable Values) (Wales) Order 2000, SI 2000/948; the Docks and Harbours (Rateable Values) (England) Order 2000, SI 2000/951; the Energy from Waste Plants (Rateable Values) (England) Order 2000, SI 2000/952; the Electricity Supply Industry (Rateable Values) (Wales) Order 2000, SI 2000/1163; and see para 100 post.

Where the Secretary of State prescribed the use of a formula for determining the rateable value of a non-domestic hereditament, it was to be assumed that he intended to provide a simple and convenient method of arriving at a fair valuation, in that context, of the entire hereditament: see *Coventry and Solihull Waste Disposal Co Ltd v Russell (Valuation Officer)* [2000] 1 All ER 97, [1999] 1 WLR 2093, [2000] RA 1, HL (considering the Electricity Generators (Rateable Values) Order 1989, SI 1989/2474 (now revoked with savings)).

7 Local Government Finance Act 1988 Sch 6 para 3(3) (Sch 6 para 3(3), (4) added by the Local Government and Housing Act 1989 Sch 5 paras 38(14), 79(3)). See note 1 supra. 'Prescribed' in the context of an order, means prescribed by the order: Local Government Finance Act 1988 s 146(6). See note 3 supra. As to the orders made under Sch 6 para 3(3) (as added) see the Electricity Supply Industry (Rateable Values) (England) Order 2000, SI 2000/947; the Docks and Harbours (Rateable Values) (Wales) Order 2000, SI 2000/948; the Docks and Harbours (Rateable Values) (England) Order 2000, SI 2000/951; the Energy from Waste Plants (Rateable Values) (England) Order 2000, SI 2000/952; and see para 100 post.

8 Local Government Finance Act 1988 Sch 6 para 3(4) (as added: see note 7 supra). See note 1 supra. 'Prescribed' in the context of an order, means prescribed by the order: s 146(6). See note 3 supra. As to the orders made under Sch 6 para 3(4) (as added) see the Electricity Supply Industry (Rateable Values) (England) Order 2000, SI 2000/947; the Docks and Harbours (Rateable Values) (Wales) Order 2000, SI 2000/948; the Docks and Harbours (Rateable Values) (England) Order 2000, SI 2000/951; the Energy from Waste Plants (Rateable Values) (England) Order 2000, SI 2000/952; and see para 100 post.

9 Local Government Finance Act 1988 Sch 6 para 3(4)(a) (as added: see note 7 supra). See notes 1, 8 supra.

10 Ibid Sch 6 para 3(4)(b) (as added: see note 7 supra). See notes 1, 8 supra.

11 Ie by virtue of regulations under ibid s 53(2) (as amended) (see para 126 post): see the Local Government Finance Act 1988 Sch 6 para 3(2) (as amended: see note 6 supra). See note 1 supra.

12 Some large properties which are national in character appear on a central rating list held by the Secretary of State: see para 125 et seq post.

13 Ie the Local Government Finance Act 1988 Sch 6 para 2 (as amended) (see paras 87–96 ante), Sch 6 paras 2A–2C (as added) (see para 97 ante): see Sch 6 para 3(2) (as amended: see note 6 supra). See note 1 supra.

14 Ibid Sch 6 para 3(2) (as amended: see note 6 supra). See note 1 supra. 'Prescribed' in the context of an order, means prescribed by the order: Local Government Finance Act 1988 s 146(6). See note 3 supra. As to the orders made under Sch 6 para 3(2) (as amended) see the Non-Domestic Rating (Appropriate Fraction and Rateable Values) Order 1991, SI 1991/2924 (amended by SI 1994/3281; SI 1994/3285); the British Waterways Board and Telecommunications Industry (Rateable Values) Revocation Order 1994, SI 1994/3281; the Water Undertakers (Rateable Values) (Wales) Order 2000, SI 2000/299 (amended by SI 2003/944); the BG plc (Rateable Value) (Wales) Order 2000, SI 2000/352 (amended by SI 2003/944); the Railtrack plc (Rateable Value) (Wales) Order 2000, SI 2000/555 (amended by

SI 2003/944); the Gas Industry (Rateable Values) (England) Order 2000, SI 2000/946; the Electricity Supply Industry (Rateable Values) (England) Order 2000, SI 2000/947; the Railways (Rateable Values) (England) Order 2000, SI 2000/949; the Water Undertakers (Rateable Values) (England) Order 2000, SI 2000/950; the Electricity Supply Industry (Rateable Values) (Wales) Order 2000, SI 2000/1163; and see para 99 post.

15 See *R (on the application of Edison First Power Ltd) v Central Valuation Officer* [2003] UKHL 20, [2003] 4 All ER 209, [2003] 2 EGLR 133 (Lord Bingham of Cornhill and Lord Steyn dissenting) (the purpose of the Local Government Finance Act 1988 Sch 6 para 3(2) (as amended) was to allow the system which Parliament had thought appropriate for the electricity generating industry (inter alia) for the previous 30 years to be retained, with whatever formulae the government thought appropriate and as long as it thought it expedient to do so). The ratepayer in this case was the purchaser of a hereditament which was chargeable to one set of rates, being its liability under the local listing (see the text and notes 2–10 supra) arising from its own rateable occupation, but it had also entered into a voluntary assumption of liability to reimburse the vendor for central rates payable under the statutory scheme in respect of the residual period in the chargeable year (i e the year of purchase): see *R (on the application of Edison First Power Ltd) v Central Valuation Officer* supra (sum paid to vendor was part of the price that it had agreed to pay for the hereditament and was not a double payment of rates to the Secretary of State).

(B) Regulations made in relation to Public Utility Undertakings

99. Hereditaments in the central lists associated with public utility undertakings. In exercise of the power to make provision in relation to non-domestic hereditaments[1] to be shown in a central non-domestic rating list[2], orders have been made so that the usual statutory provisions used to determine rateable value[3] do not apply, and their rateable value is either as specified in the orders so made or determined in accordance with prescribed rules[4].

1 For the meaning of 'hereditament' see para 33 et seq ante; and for the meaning of 'domestic property' in relation to non-domestic rating see para 120 post.

2 Ie shown by virtue of regulations under the Local Government Finance Act 1988 s 53(2) (as amended) (see para 126 post): see the Local Government Finance Act 1988 s 56(1), Sch 6 para 3(2) (as amended); and para 98 ante. As to the central non-domestic rating lists see para 125 et seq post. As from a day to be appointed under the Local Government Act 2003 s 128(6), the Local Government Finance Act 1988 Sch 6 para 3 (as amended) is repealed by the Local Government Act 2003 ss 69, 127(2), Sch 8 Pt 1. However, at the date at which this volume states the law, no such day had been appointed.

Originally, hereditaments occupied by public utility undertakings were valued on the profits basis (as to which see para 114 post). However, over time they came to be valued by the application of a statutory formula: see the General Rate Act 1967 ss 31–34, Schs 4–7 (repealed); and as to the historical development of rating law and the continuing relevance of the old case law to the current statutory regime see para 2 ante. With the coming into force of the Local Government Finance Act 1988, hereditaments occupied by public utility undertakings and a number of other properties which, in the opinion of the Secretary of State, were more appropriately rated en bloc, were entered in the central non-domestic rating lists and, with a view to securing the central rating en bloc of certain hereditaments, the list identifies persons designated for central list purposes and identifies the hereditament or class of hereditaments in respect of which they are to be rated via the central list: see the Local Government Finance Act 1988 s 53 (as amended); and para 126 post. As to the content of central non-domestic rating lists see para 125 et seq post. As to the 1990 list see the Central Rating Lists Regulations 1989, SI 1989/2263 (now revoked with savings); and as to the 2005 list see the Central Rating List (Wales) Regulations, SI 2005/422 (as amended); the Central Rating List (England) Regulations 2005, SI 2005/551 (as amended); and para 127 post. As to the Secretary of State see para 3 ante.

3 Ie the Local Government Finance Act 1988 Sch 6 para 2 (as amended) (see paras 87–96 ante), Sch 6 paras 2A–2C (as added) (see para 97 ante): see Sch 6 para 3(2) (as amended; prospectively repealed); and para 98 ante. See also note 2 supra.

4 See ibid Sch 6 para 3(2) (as amended; prospectively repealed); and para 98 ante. See also note 2 supra. 'Prescribed' in the context of an order, means prescribed by the order: Local Government Finance Act 1988 s 146(6). As to the orders made under Sch 6 para 3(2) (as amended) see the Non-Domestic Rating (Appropriate Fraction and Rateable Values) Order 1991, SI 1991/2924 (amended by SI 1994/3281; SI 1994/3285); the British Waterways Board and Telecommunications Industry (Rateable Values) Revocation Order 1994, SI 1994/3281; the Water Undertakers (Rateable Values) (Wales) Order 2000, SI 2000/299 (amended by SI 2003/944); the BG plc (Rateable Value) (Wales) Order 2000, SI 2000/352 (amended by SI 2003/944); the Railtrack plc (Rateable Value) (Wales) Order 2000,

SI 2000/555 (amended by SI 2003/944); the Gas Industry (Rateable Values) (England) Order 2000, SI 2000/946; the Electricity Supply Industry (Rateable Values) (England) Order 2000, SI 2000/947; the Railways (Rateable Values) (England) Order 2000, SI 2000/949; the Water Undertakers (Rateable Values) (England) Order 2000, SI 2000/950; and the Electricity Supply Industry (Rateable Values) (Wales) Order 2000, SI 2000/1163.

100. Hereditaments in local rating lists associated with prescribed classes. In exercise of the power to make provision in relation to non-domestic hereditaments[1] to be shown in a local non-domestic rating list[2], orders have been made[3] to provide that, in the case of a non-domestic hereditament of such class as has been prescribed[4], the usual statutory provisions governing the determination of rateable value[5] do not apply, and that its rateable value is to be determined in accordance with prescribed rules instead ('valuation by formula')[6].

1 For the meaning of 'hereditament' see para 33 et seq ante; and for the meaning of 'domestic property' in relation to non-domestic rating see para 120 post.
2 As to local non-domestic rating lists see para 121 et seq post.
3 Ie under the Local Government Finance Act 1988 Sch 6 para 3 (as amended; prospectively repealed): see para 98 ante.
4 'Prescribed' in the context of an order, means prescribed by the order: ibid s 146(6). As to the classes that may be so prescribed see further Sch 6 para 3(3), (4) (as added); and para 98 ante. As to the orders made under Sch 6 para 3(3), (4) (as added) see the Electricity Supply Industry (Rateable Values) (England) Order 2000, SI 2000/947; the Docks and Harbours (Rateable Values) (Wales) Order 2000, SI 2000/948; the Docks and Harbours (Rateable Values) (England) Order 2000, SI 2000/951; and the Energy from Waste Plants (Rateable Values) (England) Order 2000, SI 2000/952.
5 Ie under the Local Government Finance Act 1988 Sch 6 para 2 (as amended) (see paras 87–96 ante), Sch 6 paras 2A–2C (as added) (see para 97 ante): see Sch 6 para 3(1) (as amended; prospectively repealed); and para 98 ante.
6 See ibid Sch 6 para 3(1) (as amended; prospectively repealed); and para 98 ante. As to the orders made under Sch 6 para 3(1) (as amended; prospectively repealed) see the Electricity Supply Industry (Rateable Values) (England) Order 2000, SI 2000/947; the Docks and Harbours (Rateable Values) (Wales) Order 2000, SI 2000/948; the Docks and Harbours (Rateable Values) (England) Order 2000, SI 2000/951; the Energy from Waste Plants (Rateable Values) (England) Order 2000, SI 2000/952; and the Electricity Supply Industry (Rateable Values) (Wales) Order 2000, SI 2000/1163.

101. Valuation of public utilities. Notwithstanding any rule of law requiring the rateable value of a hereditament[1] occupied by a public utility undertaking to be estimated solely by reference to the accounts, receipts or profits of the undertaking[2], in arriving at an amount for the rateable value[3] in relation to such a hereditament, any evidence relevant to estimating the amount of rent in accordance with that provision is to be taken into account[4].

1 For the meaning of 'hereditament' see para 33 et seq ante.
2 As to which see para 114 post.
3 Ie under the Local Government Finance Act 1988 Sch 6 para 2(1) (as amended), Sch 6 para 2(1A) (as added) or Sch 6 para 2(1B) (as added) (see para 87 et seq ante): see the Non-Domestic Rating (Miscellaneous Provisions) (No 2) Regulations 1989, SI 1989/2303, reg 3.
4 Ibid reg 3. See also the Local Government Finance Act 1988 s 56(1), Sch 6 para 2(9) (as amended); and para 96 ante.

(C) Rateable Values of Plant and Machinery

102. Plant and machinery deemed to be part of the hereditament. For the purpose of valuing hereditaments, certain classes of plant[1] and machinery in or on the hereditament are to be deemed to be a part of the hereditament to be valued and no account is to be taken of the value[2] of any other plant or machinery in or on the hereditament. The rental value of such a hereditament is to be ascertained by estimating the rent which the hypothetical tenant would pay for the land, buildings and plant and

machinery comprising the hereditament, on the assumption that the hypothetical landlord provides at his own expense the plant and machinery as well as the land and buildings, and that the hypothetical tenant pays a rent for all that the hypothetical landlord provides[3].

1 'Plant' does not include things which are merely part of the setting in which a business is carried on: *J Lyons & Co Ltd v A-G* [1944] Ch 281, [1944] 1 All ER 477. In *Yarmouth v France* (1887) 19 QBD 647, an employer's liability case, it was said that 'plant' includes all the apparatus and instruments employed in a business. In determining whether an item is plant for rating purposes, it is not permissible to have regard to its function as part of a larger whole: *Manchester Marine Ltd v Duckworth (Valuation Officer)* [1973] 3 All ER 838, [1973] 1 WLR 1431, CA; *Union Cold Storage Co Ltd v Phillips (Valuation Officer)* [1975] RA 306, CA (on appeal [1976] RA 173, HL).

'Plant' has been held to include small safes at a safe deposit (*Chancery Lane Safe Deposit and Offices Co Ltd v Steedens (Valuation Officer)* [1961] RVR 261, Lands Tribunal); cloakroom fittings, chalk boards and display panels at a school (*Dawkins (Valuation Officer) v Royal Leamington Spa Borough Council and Warwickshire County Council* [1961] RVR 291, Lands Tribunal); pipelines (*Shell-Mex and BP Ltd v Childs (Valuation Officer)* [1961] RVR 371, Lands Tribunal (on appeal on a different point [1962] RVR 267, CA); *Bright (Valuation Officer) v British Oil Storage Co Ltd* [1962] RVR 99, Lands Tribunal; *Lever Bros, Port Sunlight Ltd v Bright (Valuation Officer) and Bebington Borough Council* [1962] RVR 70, Lands Tribunal); removable partitioning in an office (*Jarrold (Inspector of Taxes) v John Good & Sons Ltd* [1963] 1 All ER 141, [1963] 1 WLR 214, CA; *British Bakeries Ltd v Gudgion (Valuation Officer) and Croydon London Borough Council* [1969] RA 465, Lands Tribunal); and an automatic vending machine (*NH Platts & Sons Ltd v Hanstock (Valuation Officer)* [1963] RVR 344, Lands Tribunal). 'Plant' has also been said to include heating equipment, lifts, sprinklers and incinerators (*Macsaga Investment Co Ltd v Lupton (Inspector of Taxes)* [1967] Ch 167 at 175, [1966] 3 All ER 375 at 379 per Pennycuick J); and a broadcasting mast used to support aerials (*Independent Broadcasting Authority v Strathclyde Assessor* [1987] RA 268, Lands Tribunal).

'Plant' has been held not to include electric lights (*J Lyons & Co Ltd v A-G* supra); builders' huts (*Woodward (Valuation Officer) v Brading and Blundell Ltd* (1951) 44 R & IT 758, 774 at 793, Lands Tribunal; *LCC v Wilkins (Valuation Officer)* (1954) 47 R & IT 7, Lands Tribunal (on appeal on a different point [1957] AC 362, [1956] 3 All ER 38, HL)); stadium floodlighting (*Hardiman (Valuation Officer) v Crystal Palace Football and Athletic Club Ltd* (1955) 48 R & IT 91, Lands Tribunal); doors of a safe deposit (*Chancery Lane Safe Deposit and Offices Co Ltd v Steedens (Valuation Officer)* supra); the shelving, kitchen equipment and serving counters at a school (*Dawkins (Valuation Officer) v Royal Leamington Spa Borough Council and Warwickshire County Council* supra); a wallpaper merchant's pattern books (*Rose & Co (Wallpaper and Paints) Ltd v Campbell (Inspector of Taxes)* [1968] 1 All ER 405, [1968] 1 WLR 346); and a prefabricated laboratory and gymnasium at a school (*St John's School v Ward (Inspector of Taxes)* [1974] RA 49, [1974] STC 69; on appeal [1974] STC 69, CA).

All of the cases cited in this paragraph were decided prior to the coming into force of the Local Government Finance Act 1988 and, therefore, must now be considered in relation to the non-domestic rating provisions in Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 103 et seq post). As to the historical development of rating law and the continuing relevance of the old case law to the current statutory regime see para 2 ante.

2 The value to be ignored includes the cost of installing the plant or machinery: *English Clays Lovering Pochin & Co Ltd v Bowles (Valuation Officer)* [1974] RA 129, Lands Tribunal. As to classes of plant and machinery deemed to be part of the hereditament by virtue of regulations made under statute see para 103 post.

3 *Kirby v Hunslet Assessment Committee* [1906] AC 43, HL; *S Smith & Sons (Motor Accessories) Ltd v Willesden Union Assessment Committee* (1920) 89 LJKB 137. As to the valuation of plant and machinery see *Cardiff Rating Authority and Cardiff Assessment Committee v Guest Keen Baldwin's Iron and Steel Co Ltd* [1949] 1 KB 385, [1949] 1 All ER 27, CA; *Birchenwood Gas and Coke Co Ltd v Hampshire (Valuation Officer)* (1959) 4 RRC 303, Lands Tribunal; *Thomas (Valuation Officer) v Manor Vinegar Brewery Co Ltd* (1960) 6 RRC 353, Lands Tribunal; *Shell-Mex and BP Ltd v James (Valuation Officer)* [1961] RVR 106, Lands Tribunal; *Ind Coope Ltd v Burton-upon-Trent County Borough Council and Thomas (Valuation Officer)* [1961] RVR 341, Lands Tribunal; *Vickers-Armstrong (Shipbuilders) Ltd v Thornton (Valuation Officer)* (1965) 11 RRC 66, Lands Tribunal; *Staffordshire Potteries (Holdings) Ltd v Garner (Valuation Officer)* [1967] RA 31, Lands Tribunal.

103. Prescribed classes of plant and machinery deemed to be part of the hereditament. The Secretary of State (or the Welsh Ministers, as the case may be)[1] may make regulations[2] providing that, in applying the main provisions of the Local Government Finance Act 1988 which determine the rateable value of non-domestic

hereditaments[3] in relation to a hereditament of a prescribed class, prescribed assumptions (as to the hereditament or otherwise) are to be made[4].

Accordingly, for the purpose of the rating lists that came into force on 1 April 1990, the Secretary of State identified in regulations six classes of plant[5] and machinery, which, if present on the hereditament, were deemed to be part of it[6].

For the purpose of determining the rateable value of a hereditament for any day on or after 1 April 2000[7], in relation to a hereditament in or on which there is plant or machinery which belongs to any of the four prescribed classes[8], the prescribed assumptions are that any such plant or machinery is part of the hereditament, and that the value of any other plant and machinery has no effect on the rent to be estimated under the statutory hypothesis[9]. The valuation officer[10] must, on being so required in writing by the occupier[11] of any hereditament, supply to him particulars in writing showing what plant and machinery (or whether any particular plant or machinery) has been assumed in this way to form part of the hereditament[12]. In relation to any other hereditament, the prescribed assumption for these purposes[13] is that the value of any plant or machinery has no effect on the rent to be so estimated[14]. The four prescribed classes of plant and machinery are as follows:

(1) plant and machinery, listed in a table within the class, which is used or intended to be used mainly or exclusively in connection with the generation[15], storage, primary transformation or main transmission of power[16] in or on the hereditament[17] (together with any of the accessories specified for this purpose in the List of Accessories)[18];

(2) plant and machinery, listed in a table within the class, which is used or intended to be used mainly or exclusively in connection with services[19] to the land or buildings of which the hereditament consists, other than any such plant or machinery which is in or on the hereditament and is used or intended to be used in connection with services mainly or exclusively as part of manufacturing operations or trade processes[20] (together with any of the accessories specified for this purpose in the List of Accessories)[21];

(3) items including railway and tramway lines, lifts and elevators, cables, wires and conductors, posts, poles, towers and pylons (including cables, etc used for communications systems) and pipelines[22];

(4) certain miscellaneous items of plant and machinery listed in tables within the class[23] with four specific exceptions[24].

1 As to the Secretary of State and the Welsh Ministers see para 3 ante.

2 As to the making of regulations under the Local Government Finance Act 1988 generally see para 3 ante.

3 Ie the Local Government Finance Act 1988 s 56(1), Sch 6 para 2(1)–(7) (as amended) (see para 87 et seq ante): see Sch 6 para 2(8) (as amended); and para 96 ante. The Local Government Finance Act 1988 Sch 6 (as amended) has effect to determine the rateable value of non-domestic hereditaments for the purposes of Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 104 et seq post): Sch 6 para 1 (amended by the Local Government and Housing Act 1989 ss 139, 194, Sch 5 paras 38, 79(3), Sch 12 Pt II). For the meaning of 'hereditament' see para 33 et seq ante.

4 See the Local Government Finance Act 1988 Sch 6 para 2(8) (as amended); and para 96 ante. 'Prescribed' in the context of regulations, means prescribed by the regulations: s 146(6).

5 As to the case law that has developed around the possible meaning of 'plant' see para 102 note 1 ante. All of the cases cited in that paragraph and this were decided prior to the coming into force of the Local Government Finance Act 1988 and, therefore, must now be considered in relation to the non-domestic rating provisions in Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 104 et seq post). As to the historical development of rating law and the continuing relevance of the old case law to the current statutory regime see para 2 ante.

6 See the Valuation for Rating (Plant and Machinery) Regulations 1989, SI 1989/441 (revoked with savings), which did not apply to valuations on the profits basis. These regulations were revoked and replaced by the Valuation for Rating (Plant and Machinery) Regulations 1994, SI 1994/2680, which did apply to valuations on the profits basis. These regulations continue to have effect only for the purpose of

determining the rateable value of a hereditament for any day before 1 April 2000 and have been re-enacted, without major changes, in relation to England, by the Valuation for Rating (Plant and Machinery) (England) Regulations 2000, SI 2000/540 (see regs 1, 4) and, in relation to Wales, by the Valuation for Rating (Plant and Machinery) (Wales) Regulations 2000, SI 2000/1097 (see regs 1, 4) (see the text and notes 7–24 infra). As to the profits basis see para 114 post.

7 Ie in applying the provisions of the Local Government Finance Act 1988 Sch 6 para 2(1)–(7) (as amended) (see para 87 et seq ante): see the Valuation for Rating (Plant and Machinery) (England) Regulations 2000, SI 2000/540, reg 2; and the Valuation for Rating (Plant and Machinery) (Wales) Regulations 2000, SI 2000/1097, reg 2.

8 Ie the classes set out, in relation to England, in the Valuation for Rating (Plant and Machinery) (England) Regulations 2000, SI 2000/540, reg 2, Schedule (Schedule amended by SI 2001/846) and, in relation to Wales, in the Valuation for Rating (Plant and Machinery) (Wales) Regulations 2000, SI 2000/1097, reg 2, Schedule: see the Valuation for Rating (Plant and Machinery) (England) Regulations 2000, SI 2000/540, reg 2(a); and the Valuation for Rating (Plant and Machinery) (Wales) Regulations 2000, SI 2000/1097, reg 2(a).

9 Valuation for Rating (Plant and Machinery) (England) Regulations 2000, SI 2000/540, reg 2(a); Valuation for Rating (Plant and Machinery) (Wales) Regulations 2000, SI 2000/1097, reg 2(a). The text refers to the rent to be estimated as required by the Local Government Finance Act 1988 Sch 6 para 2(1) (as amended) (see para 87 et seq ante): see the Valuation for Rating (Plant and Machinery) (England) Regulations 2000, SI 2000/540, reg 2(a); and the Valuation for Rating (Plant and Machinery) (Wales) Regulations 2000, SI 2000/1097, reg 2(a).

10 As to valuation officers see para 6 ante.

11 For the meaning of 'occupier' see para 13 ante.

12 Valuation for Rating (Plant and Machinery) (England) Regulations 2000, SI 2000/540, reg 3; Valuation for Rating (Plant and Machinery) (Wales) Regulations 2000, SI 2000/1097, reg 3.

13 Ie for the purpose of determining the rateable value of a hereditament for any day on or after 1 April 2000, in applying the provisions of the Local Government Finance Act 1988 Sch 6 para 2(1)–(7) (as amended) (see para 87 et seq ante): see the Valuation for Rating (Plant and Machinery) (England) Regulations 2000, SI 2000/540, reg 2; and the Valuation for Rating (Plant and Machinery) (Wales) Regulations 2000, SI 2000/1097, reg 2.

14 Valuation for Rating (Plant and Machinery) (England) Regulations 2000, SI 2000/540, reg 2(b); Valuation for Rating (Plant and Machinery) (Wales) Regulations 2000, SI 2000/1097, reg 2(b).

15 As to the phrase 'generation of power' see *Chesterfield Tube Co Ltd v Thomas (Valuation Officer)* [1970] 3 All ER 733, [1970] 1 WLR 1483, CA. See also *W Collier Ltd v Fielding (Valuation Officer)* (1957) 1 RRC 246, Lands Tribunal; affd [1958] 1 All ER 694, [1958] 1 WLR 323, CA.

16 'Power' means any form of energy or force applicable to work, and includes electrical energy used in chemical electrolysis: *Imperial Chemical Industries Ltd v Owen (Valuation Officer) and Runcorn UDC* (1954) 48 R & IT 43, Lands Tribunal. For the meaning of 'primary transformation of power' and 'main transmission of power' see the Valuation for Rating (Plant and Machinery) (England) Regulations 2000, SI 2000/540, Schedule Class 1 paras (b), (c); and the Valuation for Rating (Plant and Machinery) (Wales) Regulations 2000, SI 2000/1097, Schedule Class 1 paras (b), (c). For the application of the terms in an earlier (slightly different) order to electrical equipment see *South Wales Aluminium Co Ltd v Neath Assessment Area Assessment Committee* [1943] 2 All ER 587, DC; *Richard Thomas & Co Ltd v Monmouth County Valuation Committee and West Monmouth Assessment Committee* [1943] 2 All ER 707, DC.

17 See the Valuation for Rating (Plant and Machinery) (England) Regulations 2000, SI 2000/540, Schedule Class 1, Table 1 (Schedule Class 1 amended by SI 2001/846); and the Valuation for Rating (Plant and Machinery) (Wales) Regulations 2000, SI 2000/1097, Schedule Class 1, Table 1.

18 See the Valuation for Rating (Plant and Machinery) (England) Regulations 2000, SI 2000/540, Schedule Class 2, List of Accessories paras 1, 2; and the Valuation for Rating (Plant and Machinery) (Wales) Regulations 2000, SI 2000/1097, Schedule Class 2, List of Accessories paras 1, 2.

19 For these purposes, 'services' means the heating, cooling, ventilating, lighting, draining or supplying of water and protection from trespass, criminal damage, theft, fire or other hazard: see the Valuation for Rating (Plant and Machinery) (England) Regulations 2000, SI 2000/540, Schedule Class 2; and the Valuation for Rating (Plant and Machinery) (Wales) Regulations 2000, SI 2000/1097, Schedule Class 2.

20 See the Valuation for Rating (Plant and Machinery) (England) Regulations 2000, SI 2000/540, Schedule Class 2, Table 2; and the Valuation for Rating (Plant and Machinery) (Wales) Regulations 2000, SI 2000/1097, Schedule Class 2, Table 2. Refrigeration equipment for trade processes was held not to fall within a predecessor of this class: *Union Cold Storage Co Ltd v Southwark Assessment Committee* (1932) 16 R & IT 160. Similarly, boilers used in trade processes were held not to fall within it: *Burton-upon-Trent Borough Council v Bass, Ratcliff and Gretton Ltd and Thomas (Valuation Officer)* [1961] RVR 310, Lands Tribunal. In *Hays Business Services v Raley (Valuation Officer)* [1986] 1 EGLR 226, Lands Tribunal, fire-fighting equipment was held not rateable as it had been installed to protect sensitive goods stored in the warehouse and not the warehouse itself.

21 See the Valuation for Rating (Plant and Machinery) (England) Regulations 2000, SI 2000/540, Schedule Class 2, List of Accessories para 2; and the Valuation for Rating (Plant and Machinery) (Wales) Regulations 2000, SI 2000/1097, Schedule Class 2, List of Accessories para 2.

22 See the Valuation for Rating (Plant and Machinery) (England) Regulations 2000, SI 2000/540, Schedule Class 3; and the Valuation for Rating (Plant and Machinery) (Wales) Regulations 2000, SI 2000/1097, Schedule Class 3. For these purposes, 'pipeline' means a pipe or system of pipes and associated fixed accessories and equipment for the conveyance of any thing, not being either a drain or sewer or a pipeline which forms part of the equipment of (and is wholly situated within) a factory or petroleum storage depot, a mine, quarry or mineral field or a natural gas storage or processing facility or gas holder site: see the Valuation for Rating (Plant and Machinery) (England) Regulations 2000, SI 2000/540, Schedule Class 3 para (g); and the Valuation for Rating (Plant and Machinery) (Wales) Regulations 2000, SI 2000/1097, Schedule Class 3 para (g).

The onus is on the ratepayer to prove that a particular pipeline is within one of the exceptions: *Edwards (Valuation Officer) v BP Refinery (Llandarcy) Ltd* [1974] RA 1 at 20, Lands Tribunal. As to pipelines conveying slurry over several miles from a china clay quarry to the 'dries' where it was prepared for sale see *English Clays Lovering Pochin & Co Ltd v Davis (Valuation Officer)* [1966] RA 475, Lands Tribunal; *English Clays Lovering Pochin & Co Ltd v Plymouth Corpn* [1974] 2 All ER 239, [1974] 1 WLR 742, CA. Cf *Rugby Portland Cement Co Ltd v Hunt (Valuation Officer)* (1969) 16 RRC 42, Lands Tribunal. As to pipes forming part of the equipment of a factory see *Edwards (Valuation Officer) v BP Refinery (Llandarcy) Ltd* supra; *Petrofina (Great Britain) Ltd v Harrington (Valuation Officer)* [1973] RA 65, Lands Tribunal; *Russell (Valuation Officer) v Shell-Mex and BP Ltd* (1970) 17 RRC 323, Lands Tribunal. As to pipelines within a mineral field see *Ottewell (Valuation Officer) v BP Exploration Operating Co Ltd* [1995] RA 22, Lands Tribunal.

23 The number and variety of items makes a summary or general description impracticable. For the full list see the Valuation for Rating (Plant and Machinery) (England) Regulations 2000, SI 2000/540, Schedule Class 4, Tables 3 and 4; and the Valuation for Rating (Plant and Machinery) (Wales) Regulations 2000, SI 2000/1097, Schedule Class 4, Tables 3 and 4. With regard to a number of items, including 'economisers', 'condensers', 'towers and columns', 'conduits', 'foundations', 'settings', 'fixed gantries', 'supports', 'platforms' and 'stages', 'tanks', 'blast furnaces', 'superheaters', and a 'still' see *Kent Oil Refinery Ltd v Walker* (1954) 47 R & IT 771, Lands Tribunal (on appeal sub nom *BP Refinery (Kent) Ltd v Walker (Valuation Officer)* [1957] 2 QB 305, [1957] 1 All ER 700, CA). As to 'bins' see *Chancery Lane Safe Deposit and Offices Co Ltd v Steedens (Valuation Officer)* [1961] RVR 261, Lands Tribunal. As to 'chambers and vessels' see *Scaife (Valuation Officer) v British Fermentation Products Ltd* [1971] RA 352, Lands Tribunal; *W Collier Ltd v Fielding (Valuation Officer)* (1957) 1 RRC 246, Lands Tribunal (affd [1958] 1 All ER 694, [1958] 1 WLR 323, CA). As to 'floating pontoons' see *Vickers-Armstrong (Shipbuilders) Ltd v Thornton (Valuation Officer)* (1965) 11 RRC 66, Lands Tribunal. As to 'conduits' see *Shell-Mex and BP Ltd v Childs (Valuation Officer)* [1961] RVR 371, Lands Tribunal (on appeal on another point [1962] RVR 267, CA); *Bright (Valuation Officer) v British Oil Storage Co Ltd* [1962] RVR 99, Lands Tribunal; *Lever Bros, Port Sunlight Ltd v Bright (Valuation Officer) and Bebington Borough Council* [1962] RVR 70, Lands Tribunal. As to 'foundations, settings etc' see *Shell-Mex and BP Ltd v James (Valuation Officer)* [1961] RVR 106, Lands Tribunal; *Lever Bros, Port Sunlight Ltd v Bright (Valuation Officer) and Bebington Borough Council* supra; *Post Office v Escott (Valuation Officer) and Kerrier RDC* [1974] RA 97, Lands Tribunal. As to 'furnaces' see *Gudgion (Valuation Officer) v Croydon Borough Council* (1970) 16 RRC 305, Lands Tribunal. As to 'silos' see *JW Thompson (Chesterfield) Ltd v Thomas (Valuation Officer)* (1970) 16 RRC 256, Lands Tribunal. As to 'radio telescopes' see *Post Office v Escott (Valuation Officer) and Kerrier RDC* supra. As to 'tanks' see *Shell-Mex and BP Ltd v Holyoak (Valuation Officer)* [1959] 1 All ER 391, [1959] 1 WLR 188, HL; *Regent Oil Co Ltd v Trevail (Valuation Officer)* (1959) 4 RRC 202, Lands Tribunal; *Shell-Mex and BP Ltd v James (Valuation Officer)* supra; *Slack v Harrison (Valuation Officer)* (1960) 8 RRC 143, Lands Tribunal; *Ind Coope Ltd v Burton-upon-Trent County Borough Council and Thomas (Valuation Officer)* [1961] RVR 341, Lands Tribunal. As to 'vats' see *Thomas (Valuation Officer) v Manor Vinegar Brewery Co Ltd* (1960) 6 RRC 353, Lands Tribunal. As to 'masts' see *Whitfield (Valuation Officer) v National Transcommunications Ltd* [1995] RA 214, Lands Tribunal.

As to plant at a sewage works see *Jones (Valuation Officer) v Eastern Valleys (Monmouthshire) Joint Sewerage Board* (1960) 6 RRC 379, Lands Tribunal. As to baker's ovens and provers see *Cumber (Valuation Officer) v Associated Family Bakers (South West) Ltd* [1979] RA 328, Lands Tribunal.

24 The exceptions are:

(1) any such item which is not, and is not in the nature of, a building or structure (see the Valuation for Rating (Plant and Machinery) (England) Regulations 2000, SI 2000/540, Schedule Class 4 para (a); and the Valuation for Rating (Plant and Machinery) (Wales) Regulations 2000, SI 2000/1097, Schedule Class 4 para (a));

(2) any part of any such item which does not form an integral part of such item as a building or structure or as being in the nature of a building or structure (see the Valuation for Rating (Plant

and Machinery) (England) Regulations 2000, SI 2000/540, Schedule Class 4 para (b); and the Valuation for Rating (Plant and Machinery) (Wales) Regulations 2000, SI 2000/1097, Schedule Class 4 para (b));

(3) so much of any refractory or other lining forming part of any plant or machinery as is customarily renewed by reason of normal use at intervals of less than 50 weeks (see the Valuation for Rating (Plant and Machinery) (England) Regulations 2000, SI 2000/540, Schedule Class 4 para (c); and the Valuation for Rating (Plant and Machinery) (Wales) Regulations 2000, SI 2000/1097, Schedule Class 4 para (c));

(4) any item in the Valuation for Rating (Plant and Machinery) (England) Regulations 2000, SI 2000/540, Schedule Table 4 only or in the Valuation for Rating (Plant and Machinery) (Wales) Regulations 2000, SI 2000/1097, Schedule Table 4 only, as the case may be, the total cubic capacity of which (measured externally and excluding foundations, settings, supports and anything which is not an integral part of the item) does not exceed 400 cubic metres, and which is readily capable of being moved from one site and re-erected in its original state on another without the substantial demolition of the item or of any surrounding structure (see the Valuation for Rating (Plant and Machinery) (England) Regulations 2000, SI 2000/540, Schedule Class 4 para (d); and the Valuation for Rating (Plant and Machinery) (Wales) Regulations 2000, SI 2000/1097, Schedule Class 4 para (d)).

As to what is meant by 'substantial demolition' see *Cumber (Valuation Officer) v Associated Family Bakers (South West) Ltd* [1979] RA 328, Lands Tribunal.

An item can be, or be in the nature of, a building or structure notwithstanding that it, or part of it, moves: *Cardiff Rating Authority and Cardiff Assessment Committee v Guest Keen Balduin's Iron and Steel Co Ltd* [1949] 1 KB 385, [1949] 1 All ER 27, CA (tilting furnaces and gas and blast mains rateable); *British Portland Cement Manufacturers Ltd v Thurrock UDC* (1950) 114 JP 580, CA (rotary cement kilns rateable); *Tunnel Portland Cement Co Ltd v Thurrock UDC and Spencer (Valuation Officer)* (1951) 44 R & IT 632, Lands Tribunal (rotary cement kilns rateable); *Jones (Valuation Officer) v Rugby Portland Cement Co Ltd* (1952) 45 R & IT 807, Lands Tribunal (rotary cement kilns rateable); *Burton (Valuation Officer) v Ogdens (Brighton) Ltd* (1952) 45 R & IT 470, CA (baking ovens rateable). Cf *Engineering Industry Training Board v Foster Wheeler John Brown Boilers Ltd* [1970] 2 All ER 616, [1970] 1 WLR 881, CA. A floating dock was held not to be a structure in *Vickers-Armstrong (Shipbuilders) Ltd v Thornton (Valuation Officer)* (1965) 11 RRC 66, Lands Tribunal. A Lancashire boiler has been held to be a structure, or in the nature of a structure: *Wand (Valuation Officer) v Strong & Co of Romsey Ltd* [1967] RA 45, Lands Tribunal. Refractory brickwork and linings in steel furnaces may be part of the structure (*British Steel Corpn v Pittock (Valuation Officer)* (1970) 16 RRC 374, Lands Tribunal); but these may now be excluded by the exception in head (3) supra. As to refrigeration plant see *Union Cold Storage Co Ltd v Southwark Assessment Committee* (1932) 16 R & IT 160; *Union Cold Storage Co Ltd v Phillips (Valuation Officer)* [1973] RA 148, Lands Tribunal (on appeal [1975] RA 306, CA; affd [1976] RA 173, HL).

(D) Valuation of Wasting Property

104. Valuation of mines and quarries. The prevailing modern method of valuing mines and quarries[1] is by reference to a royalty per ton of output, to which is added a rent for the surface of the land and the buildings and other works occupied as part of the mine[2].

However, the value of mines and quarries may be ascertained alternatively on the same principle as that of an undertaking valued on the profits basis[3], that is, by making deductions from the yearly receipts for working expenses, for the tenant's share of the profits and for expenses of repair[4]. This last deduction includes the cost of maintaining the permanent roads and airways[5], but not the cost of sinking shafts[6]. No deduction is allowed to provide for the ultimate renewal of exhausted mines[7].

An exhausted mine is not rateable, even though a rent continues to be paid for it[8]; nor is a mine which has become unworkable[9].

The Secretary of State (or the Welsh Ministers, as the case may be)[10] may also make regulations under the Local Government Finance Act 1988[11] providing that, in arriving at an amount for the rateable value of a non-domestic hereditament[12], prescribed principles are to be applied[13]. Accordingly, in arriving[14] at an amount of estimated rent in relation to such part of any mine or quarry[15] as consists of land[16] occupied for the purpose of the winning and working, grading, washing, grinding and crushing of

minerals, no account is to be taken of sums payable in respect of the extraction of minerals from such land in so far as such sums are attributable to the capital value of minerals extracted[17]; and it is to be assumed[18] that the proportion of such sums attributable to the capital value of such minerals is 50 per cent[19].

1 There is no definition of 'mine' or 'quarry' in the Local Government Finance Act 1988; but see note 15 infra. The meaning of 'mine' was considered judicially for the purposes of determining the rateable value of a mine in *Snailbeach Mine Co Ltd v Forden Guardians* (1876) 35 LT 514.

Most of the cases cited in this paragraph were decided prior to the coming into force of the Local Government Finance Act 1988 and, therefore, must now be considered in relation to the non-domestic rating provisions in Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 105 et seq post). As to the historical development of rating law and the continuing relevance of the old case law to the current statutory regime see para 2 ante.

2 For examples of the use of this method see eg *Queensgate Whiting Co Ltd v Clayton (Valuation Officer)* (1959) 6 RRC 230, Lands Tribunal; *Leicester Lime Co Ltd v Winterton (Valuation Officer)* [1967] RA 5, Lands Tribunal; *The Tivydale Coal Co Ltd v Hanstock (Valuation Officer)* [1966] RA 225, Lands Tribunal; *Tarmac Roadstone Ltd v Longbotham (Valuation Officer)* [1968] RA 291, Lands Tribunal; *Mann (Valuation Officer) v Smiles & Co Ltd* (1968) 15 RRC 72, Lands Tribunal; *Brook (Valuation Officer) v National Coal Board and Burnwell Coal Co Ltd* [1971] RA 148, Lands Tribunal (on appeal on another point [1975] RA 367, CA); *Banks (H J) & Co Ltd v Speight (Valuation Officer)* [2005] RA 61, Lands Tribunal; and *HJ Banks & Co Ltd v Speight and Walsh (Valuation Officers)* [2007] RA 187, Lands Tribunal. In valuing a coal mine, the prospect of better trade in years subsequent to the year of assessment is a factor which may be taken into account by a tenant from year to year in estimating the rent he would give; and a tenant is entitled to take into account the possibility of a continuance of his tenancy beyond the year: *Consett Iron Co Ltd v Assessment Committee for No 5 or North-Western Area of County of Durham* [1931] AC 396, HL.

3 As to the profits basis generally see para 114 post.

4 See eg *Brown & Co Ltd v Rotherham Union Assessment Committee and Churchwardens and Overseers of Dalton* (1900) 64 JP 580, DC.

5 *Brown & Co Ltd v Rotherham Union Assessment Committee and Churchwardens and Overseers of Dalton* (1900) 64 JP 580, DC.

6 *R v Attwood* (1827) 6 B & C 277.

7 Cf *R v Westbrook, R v Everist* (1847) 10 QB 178; *Coltness Iron Co v Black* (1881) 6 App Cas 315, HL (a decision on income tax); and see INCOME TAXATION vol 23(1) (Reissue) paras 198, 573.

8 *R v Bedworth Inhabitants* (1807) 8 East 387.

9 *Tyne Coal Co v Wallsend Parish Overseers* (1877) 46 LJMC 185.

10 As to the Secretary of State and the Welsh Ministers see para 3 ante.

11 As to the making of regulations under the Local Government Finance Act 1988 generally see para 3 ante.

12 For the meaning of 'hereditament' see para 33 et seq ante.

13 See the Local Government Finance Act 1988 Sch 6 para 2(9) (as amended); and para 96 ante. The Local Government Finance Act 1988 Sch 6 (as amended) has effect to determine the rateable value of non-domestic hereditaments for the purposes of Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 105 et seq post): Sch 6 para 1 (amended by the Local Government and Housing Act 1989 ss 139, 194, Sch 5 paras 38, 79(3), Sch 12 Pt II).

14 Ie under the Local Government Finance Act 1988 Sch 6 para 2(1) (as amended) (see para 87 et seq ante): see the Non-Domestic Rating (Miscellaneous Provisions) Regulations 1989, SI 1989/1060, reg 5(3).

15 Ie any hereditament which consists of (or includes) a mine or quarry or any hereditament the whole or part of which is occupied together with a mine or quarry in connection with the storage or removal of its minerals or its refuse: Non-Domestic Rating (Miscellaneous Provisions) Regulations 1989, SI 1989/1060, reg 5(1). Any reference to a mine or quarry includes a reference to a well or bore-hole, or to a well and bore-hole combined; and, unless the context otherwise requires, expressions which are also used in the Mines and Quarries Act 1954 (see MINES, MINERALS AND QUARRIES) have the same meanings as in that Act: Non-Domestic Rating (Miscellaneous Provisions) Regulations 1989, SI 1989/1060, reg 5(3) (substituted by SI 1989/2303).

16 For these purposes, 'land' does not include buildings, structures, roads, shafts, adits or other works: Non-Domestic Rating (Miscellaneous Provisions) Regulations 1989, SI 1989/1060, reg 5(3) (as substituted: see note 15 supra).

17 Ibid reg 5(2).

18 Ie in applying the Local Government Finance Act 1988 Sch 6 para 2(1)–(7) (as amended) (see para 87 et seq ante): see the Non-Domestic Rating (Miscellaneous Provisions) Regulations 1989, SI 1989/1060, reg 5(2).

19 Ibid reg 5(2).

105. Rapidly exhausting hereditaments. The net annual value of a rapidly exhausting hereditament, such as a brickfield[1], chalk pit[2] or gravel pit[3], is the rent which a tenant might at the date of the valuation be expected to give for a year's tenancy of it; and this may well be something less than a figure arrived at by a calculation based on the rent and the royalties payable upon the maximum quantity of bricks that might be made or of material that might be got[4]. In most cases in which the hereditament becomes exhausted in the course of the year, the value is to be ascertained with regard to the estimated output over a whole year without deduction on account of exhaustion of the mineral in the course of the year[5].

1 *R v Westbrook, R v Everist* (1847) 10 QB 178; *Yorkshire Brick Co Ltd v Hanstock (Valuation Officer)* (1959) 6 RRC 13, Lands Tribunal.

All of the cases cited in this paragraph were decided prior to the coming into force of the Local Government Finance Act 1988 and, therefore, must now be considered in relation to the non-domestic rating provisions in Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 106 et seq post). As to the historical development of rating law and the continuing relevance of the old case law to the current statutory regime see para 2 ante.

2 *R v North Aylesford Union* (1872) 37 JP 148; *Queensgate Whiting Co Ltd v Clayton (Valuation Officer)* (1959) 6 RRC 230, Lands Tribunal. The profits which the occupiers made by being occupiers also of an adjoining cement works were not to be taken into account: *R v North Aylesford Union* supra. See also *Leicester Lime Co Ltd v Winterton (Valuation Officer)* [1967] RA 5, Lands Tribunal.

3 *Farnham Flint, Gravel and Sand Co Ltd v Farnham Union* [1901] 1 KB 272, CA; distinguished in *Gilbard (Valuation Officer) v Amey Roadstone Corpn Ltd* [1974] RA 498, CA.

4 See the cases cited in note 1 supra.

5 *Gilbard (Valuation Officer) v Amey Roadstone Corpn Ltd* [1974] RA 498, CA; distinguishing *Farnham Flint, Gravel and Sand Co Ltd v Farnham Union* [1901] 1 KB 272, CA, where it had been held that regard should be had to the amount of mineral remaining unexhausted at the date of the rate.

106. Spoil heaps. The extraction of minerals from spoil heaps may give rise to rateable occupation, whether the heaps are classed as land or as chattels[1].

1 See *Greenall (Valuation Officer) v Castleford Brick Co Ltd* (1959) 5 RRC 253, Lands Tribunal; *Andrews v Hereford RDC* [1963] RA 75, DC; *Ryan Industrial Fuels Ltd v Morgan (Valuation Officer)* [1965] 3 All ER 465, [1965] 1 WLR 1347, CA; *Tarmac Roadstone Ltd v Longbotham (Valuation Officer)* [1968] RA 291, Lands Tribunal; *Mann (Valuation Officer) v Smiles & Co Ltd* (1968) 15 RRC 72, Lands Tribunal; *National Coal Board v Brook (Valuation Officer)* (1970) 16 RRC 357, Lands Tribunal; *Brook (Valuation Officer) v National Coal Board and Burnwell Coal Co Ltd* [1971] RA 148, Lands Tribunal (on appeal on another point [1975] RA 367, CA).

All of the cases cited in this paragraph were decided prior to the coming into force of the Local Government Finance Act 1988 and, therefore, must now be considered in relation to the non-domestic rating provisions in Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 107 et seq post). As to the historical development of rating law and the continuing relevance of the old case law to the current statutory regime see para 2 ante.

(E) Regulations made in relation to Former Enterprise Zones

107. Former enterprise zones. The Secretary of State (or the Welsh Ministers, as the case may be)[1] may make regulations[2] providing that, in applying the main provisions of the Local Government Finance Act 1988 to determine the rateable value of non-domestic hereditaments[3] in relation to a hereditament of a prescribed class, prescribed assumptions (as to the hereditament or otherwise) are to be made[4]. Accordingly, where the rateable value of a hereditament situated wholly or partly in a former enterprise zone[5] is to be entered in a list[6] (or the rateable value shown in a list for such a hereditament is to be altered)[7] it is to be assumed[8] that on the relevant day no area had been designated as an enterprise zone[9].

1 As to the Secretary of State and the Welsh Ministers see para 3 ante.

2 As to the making of regulations under the Local Government Finance Act 1988 generally see para 3 ante.

3 Ie the Local Government Finance Act 1988 s 56(1), Sch 6 para 2(1)–(7) (as amended) (see para 87 et seq ante): see Sch 6 para 2(8) (as amended); and para 96 ante. The Local Government Finance Act 1988 Sch 6 (as amended) has effect to determine the rateable value of non-domestic hereditaments for the purposes of Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 108 et seq post): Sch 6 para 1 (amended by the Local Government and Housing Act 1989 ss 139, 194, Sch 5 paras 38, 79(3), Sch 12 Pt II). For the meaning of 'hereditament' see para 33 et seq ante.

4 See the Local Government Finance Act 1988 Sch 6 para 2(8) (as amended); and para 96 ante. 'Prescribed' in the context of regulations, means prescribed by the regulations: s 146(6).

5 For these purposes, 'enterprise zone' means an area so designated under the Local Government, Planning and Land Act 1980 s 179 (as amended), Sch 32 para 5(1) (as amended) (see TOWN AND COUNTRY PLANNING vol 46(3) (Reissue) para 1491 et seq); and 'former enterprise zone' means an area which has ceased to be so designated since a date on or after the relevant day, being the day by reference to which a rateable value is to be determined in accordance with the Local Government Finance Act 1988 Sch 6 para 2(3) (see para 94 ante): Valuation for Rating (Former Enterprise Zones) Regulations 1995, SI 1995/213, reg 1(2).

6 Ie a central non-domestic rating list or a local non-domestic rating list: see ibid reg 1(2). As to the compilation of local non-domestic rating lists see para 121 post; and as to the compilation of central non-domestic rating lists see para 125 post.

7 As to the alteration of rating lists see para 128 et seq post.

8 Ie in applying the Local Government Finance Act 1988 Sch 6 para 2(1)–(7) (as amended) (see para 87 et seq ante) in relation to so much of the hereditament as is situated in the former enterprise zone: see the Valuation for Rating (Former Enterprise Zones) Regulations 1995, SI 1995/213, reg 2.

9 Ibid reg 2.

(F) Regulations made in relation to Advertising Hereditaments

108. Advertising hereditaments. The Secretary of State (or the Welsh Ministers, as the case may be)[1] may make regulations[2] providing that, in applying the main provisions of the Local Government Finance Act 1988 to determine the rateable value of non-domestic hereditaments[3] in relation to a hereditament of a prescribed class, prescribed assumptions (as to the hereditament or otherwise) are to be made[4], or that, in arriving at an amount for the rateable value of a non-domestic hereditament[5], prescribed principles are to be applied[6].

Accordingly, in relation to an advertising hereditament[7], it is to be assumed[8] that the grant or reservation of the right of which the hereditament consists included the grant or reservation of a right to use any structure[9] or sign for the time being available for use for the purpose of exhibiting advertisements by the occupier of that hereditament, notwithstanding that the structure or sign was provided by that occupier or was provided after the making of the grant or reservation concerned[10].

In arriving at an amount of the hypothetical rent for the purposes of determining rateable value[11] in respect of any land[12] over which such an advertising right is exercisable, no account is to be taken of any value (or, as the case may be, increased value) arising from the use of the land for the purpose of exhibiting advertisements in accordance with that right[13]. However, where any hereditament rateable in respect of its occupation[14] for other purposes is used temporarily or permanently for (or for the erection thereon or attachment thereto of any structure used for) the exhibition of advertisements other than in pursuance of an advertising right, in arriving at an amount[15] in respect of that hereditament the increased value from that use of the hereditament is to be taken into account[16].

1 As to the Secretary of State and the Welsh Ministers see para 3 ante.

2 As to the making of regulations under the Local Government Finance Act 1988 generally see para 3 ante.

3 Ie the Local Government Finance Act 1988 s 56(1), Sch 6 para 2(1)–(7) (as amended) (see para 87 et seq ante): see Sch 6 para 2(8) (as amended); and para 96 ante. The Local Government Finance Act 1988 Sch 6 (as amended) has effect to determine the rateable value of non-domestic hereditaments for the purposes of Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 109 et seq post): Sch 6 para 1 (amended by the Local Government and Housing Act 1989 ss 139, 194, Sch 5 paras 38, 79(3), Sch 12 Pt II). For the meaning of 'hereditament' see para 33 et seq ante.

4 See the Local Government Finance Act 1988 Sch 6 para 2(8) (as amended); and para 96 ante. 'Prescribed' in the context of regulations, means prescribed by the regulations: s 146(6).
5 Ie under ibid Sch 6 para 2(1) (as amended), Sch 6 para 2(1A) (as added) or Sch 6 para 2(1B) (as added) (see para 87 et seq ante): see Sch 6 para 2(9) (as amended); and para 96 ante.
6 See ibid Sch 6 para 2(9) (as amended); and para 96 ante.
7 For these purposes, 'advertising hereditament' means a hereditament consisting of a right to which the Local Government Finance Act 1988 s 64(2) applies (see para 31 ante); and 'advertising right' means a right which is such a hereditament: Non-Domestic Rating (Miscellaneous Provisions) (No 2) Regulations 1989, SI 1989/2303, reg 4(4).
8 Ie in applying the Local Government Finance Act 1988 Sch 6 para 2(1)–(7) (as amended) (see para 87 et seq ante): see the Non-Domestic Rating (Miscellaneous Provisions) (No 2) Regulations 1989, SI 1989/2303, reg 4(1).
9 For these purposes, 'structure' includes a hoarding, frame, post or wall: ibid reg 4(4).
10 Ibid reg 4(1).
11 Ie under the Local Government Finance Act 1988 Sch 6 para 2(1) (as amended), Sch 6 para 2(1A) (as added) or Sch 6 para 2(1B) (as added) (see para 87 et seq ante): see the Non-Domestic Rating (Miscellaneous Provisions) (No 2) Regulations 1989, SI 1989/2303, reg 4(2).
12 Ie within the meaning of the Local Government Finance Act 1988 s 64(2) (see para 31 ante): see the Non-Domestic Rating (Miscellaneous Provisions) (No 2) Regulations 1989, SI 1989/2303, reg 4(2).
13 Ibid reg 4(2).
14 As to occupation see para 12 et seq ante.
15 Ie under the Local Government Finance Act 1988 Sch 6 para 2(1) (as amended), Sch 6 para 2(1A) (as added) or Sch 6 para 2(1B) (as added) (see para 87 et seq ante): see the Non-Domestic Rating (Miscellaneous Provisions) (No 2) Regulations 1989, SI 1989/2303, reg 4(3).
16 Ibid reg 4(3).

(G) Valuation of Licensed Premises

109. Consideration of existence of licence. In valuing licensed premises, it is necessary to take into account the value due to the existence of the licence, because the trade which the occupier is thereby permitted to carry on may only be carried on upon the premises rated[1]. Consequently, unless there are countervailing circumstances, an increase in the amount of licence duty which a tenant of the house must bear will have the effect of decreasing the rental value of the house[2].

Where the occupier is bound by a 'tying' covenant to take his liquor, or some part of it, from the landlord, the 'tied' house is to be valued as if it were not affected by any such covenant[3].

1 *R v Bradford* (1815) 4 M & S 317; *West Middlesex Waterworks Co v Coleman* (1885) 14 QBD 529, DC; *Cartwright v Sculcoates Union* [1900] AC 150, HL; *R v Shoreditch Assessment Committee, ex p Morgan* [1910] 2 KB 859, CA; *Robinson Bros (Brewers) Ltd v Houghton and Chester-le-Street Assessment Committee* [1937] 2 KB 445 at 471, 474, [1937] 2 All ER 298 at 309, 311, CA, per Scott LJ (affd sub nom *Robinson Bros (Brewers) Ltd v Durham County Assessment Committee (Area No 7)* [1938] AC 321, [1938] 2 All ER 79, HL); *Appenrodt v Central Middlesex Assessment Committee* [1937] 2 KB 48 at 55–56, [1937] 2 All ER 325 at 329, CA, per Lord Wright MR. Cf *Earl Fitzwilliam v IRC* [1914] AC 753, HL, where the value of premises due to the licence was included in the assessment of reversion duty.

All of the cases cited in this paragraph were decided prior to the coming into force of the Local Government Finance Act 1988 and, therefore, must now be considered in relation to the non-domestic rating provisions in Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 110 et seq post). As to the historical development of rating law and the continuing relevance of the old case law to the current statutory regime see para 2 ante.

2 *R v Shoreditch Assessment Committee, ex p Morgan* [1910] 2 KB 859, CA.
3 Ie as if it were a 'free' house: *Sunderland Overseers v Sunderland Union* (1865) 18 CBNS 531; *Robinson Bros (Brewers) Ltd v Durham County Assessment Committee (Area No 7)* [1938] AC 321 at 337, [1938] 2 All ER 79 at 85–86, HL, per Lord Macmillan. In practice, a tied house is sometimes valued by taking the rent reserved and adding to it a sum estimated to represent the burden of the tying covenant.

110. Evidence of trade done and of outgoings. The simplest method of valuing a public house would be by ascertaining the rents which are prevalent in the neighbourhood for 'free' houses; but where this evidence is not available, it is not

possible to apply this test. Evidence of the trade actually done and of the profits made by the actual occupier is admissible in order to ascertain the rental value[1]. The rent which a brewer would give for a licensed property in order to put in a tied tenant or a manager must be taken into account in estimating the gross value of the house[2]. If evidence of the gross receipts is given, an occupier must be allowed to give evidence of the outgoings which have been found necessary to earn those receipts[3].

1 *Cartwright v Sculcoates Union* [1900] AC 150, HL; *Robinson Bros (Brewers) Ltd v Houghton and Chester-le-Street Assessment Committee* [1937] 2 KB 445, [1937] 2 All ER 298, CA (affd sub nom *Robinson Bros (Brewers) Ltd v Durham County Assessment Committee (Area No 7)* [1938] AC 321, [1938] 2 All ER 79, HL); *Appenrodt v Central Middlesex Assessment Committee* [1937] 2 KB 48 at 65, [1937] 2 All ER 325 at 335, CA, per Scott LJ. As to the calculation of value on the profits basis generally see para 115 post. The principle was lucidly explained for the purpose of assessing the capital amount payable by way of compensation for the refusal of an old licence in *Ashby's Cobham Brewery Co, Petitioners, Re The Crown, Cobham* [1906] 2 KB 754 at 761–764 per Kennedy J. See also *Brickwoods Ltd v Cousins (Valuation Officer)* [1968] RA 243, Lands Tribunal; *Bass Charrington (North) Ltd v Padgett (Valuation Officer)* [1969] RA 167, Lands Tribunal. It is clear from *Cartwright v Sculcoates Union* supra that the accounts of the actual occupier, while not necessarily according with those of the hypothetical tenant, form a useful starting point for the valuer when he prepares the accounts of the hypothetical tenant: *Sharp v Griffiths (Valuation Officer)* [1999] RA 265, [1999] 3 EGLR 113, Lands Tribunal (accounts were showing losses and the evidence did not suggest a real likelihood that future trade would improve to such an extent as to persuade a hypothetical tenant to pay a significant annual rent).

Most of the cases cited in this paragraph were decided prior to the coming into force of the Local Government Finance Act 1988 and, therefore, must now be considered in relation to the non-domestic rating provisions in Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 111 et seq post). As to the historical development of rating law and the continuing relevance of the old case law to the current statutory regime see para 2 ante.

2 *Robinson Bros (Brewers) Ltd v Houghton and Chester-le-Street Assessment Committee* [1937] 2 KB 445, [1937] 2 All ER 298, CA (affd sub nom *Robinson Bros (Brewers) Ltd v Durham County Assessment Committee (Area No 7)* [1938] AC 321, [1938] 2 All ER 79, HL); overruling *Bradford-on-Avon Assessment Committee v White* [1898] 2 QB 630, DC.

3 *Parr v Leigh Union* (1905) 1 Konst Rat App 211.

111. Methods of valuation of licensed premises. The usual method of valuation of licensed premises when based on trade is to take the profits (actual or estimated) of the last year or over an average of years, together with the tied rent, and to subtract from them the remuneration which the hypothetical tenant would expect for himself, and to apportion the remainder between rent and rates[1]. Valuation by reference to capital values has been rejected in the past[2].

1 This method was described in *Watney Mann Ltd v Langley (Valuation Officer)* [1966] 1 QB 457 at 463, [1963] 3 All ER 967 at 970 per Thompson J. For examples of the application of this method see *Kirk and Lambert Ltd v West Sussex Assessment Committee* (1938) 29 R & IT 272, 308; *Friary, Holroyd and Healy's Ltd v Surrey County* (1939) 30 R & IT 156; *Westall v Reading Rating Authority* (1939) 30 R & IT 192, 208, 272; *Hall and Woodhouse v South Dorset Assessment Committee* (1939) 30 R & IT 256; *Bryan v East Sussex Assessment Committee* (1939) 31 R & IT 26; *Offilers' Brewery v Derby Borough Assessment Committee* (1940) 32 R & IT 344; *Thomas v Herefordshire Assessment Committee* (1940) 32 R & IT 407 (a free house); *Fountain & Co Ltd v County Borough of Derby Assessment Committee* (1941) 34 R & IT 267; *Edlins Ltd v Horsham and Worthing Assessment Committee* (1946) 39 R & IT 392 (a free house); *Smith v East Devon Assessment Committee* (1946) 40 R & IT 15. See also *Steward & Patteson Ltd v County Borough of Great Yarmouth and Vaughan (Valuation Officer)* (1959) 5 RRC 204, Lands Tribunal; *Hutton v Davies (Valuation Officer)* (1959) 6 RRC 124, Lands Tribunal; *Burkitt (Valuation Officer) v Tennant Bros Ltd* (1960) 7 RRC 243, Lands Tribunal; *Warwicks and Richardsons Ltd v Padgett (Valuation Officer)* (1959) 6 RRC 52, Lands Tribunal; *Bloodworth (Valuation Officer) v Home Brewery Co Ltd* (1959) 6 RRC 128, Lands Tribunal; *Billing (Valuation Officer) v Ansells Brewery Ltd* (1960) 7 RRC 395, Lands Tribunal; *Brickwoods Ltd v Cousins (Valuation Officer)* [1968] RA 243, Lands Tribunal; *Bass Charrington (North) Ltd v Padgett (Valuation Officer)* [1969] RA 167, Lands Tribunal; *Brunning & Price Ltd v Cowell (Valuation Officer)* (10 September 2007, unreported), Lands Tribunal. As to more general methods that are applied to valuation for rating purposes see para 112 et seq post.

Almost all of the cases cited in this paragraph were decided prior to the coming into force of the Local Government Finance Act 1988 and, therefore, must now be considered in relation to the

non-domestic rating provisions in Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 112 et seq post). As to the historical development of rating law and the continuing relevance of the old case law to the current statutory regime see para 2 ante.

2 *City of Sheffield v John Smith's Tadcaster Brewery Co Ltd and Tranter (Valuation Officer)* (1958) 3 RRC 191, Lands Tribunal; *Steward & Patteson Ltd v County Borough of Great Yarmouth and Vaughan (Valuation Officer)* (1959) 5 RRC 204, Lands Tribunal.

(iii) Methods of Valuation

112. No uniform method of valuation. There is no longer any rule of law that any class of hereditament must be valued by a particular method. The main methods of rating in general use can be summarised as being: by reference to actual rents; the 'profits' or 'receipts and expenditure' basis; the 'contractor's basis'; and by using evidence of assessments of comparable hereditaments[1]. There are no hard and fast rules as to which method should be used in any particular case.

All relevant evidence is to be admitted, but given weight according to its quality[2]. Nevertheless, it is to be expected that actual rents, where they are available and cannot be impeached, are likely to be the best guide as to value, although not conclusive[3].

1 As to the various methods in use see para 113 et seq post.

2 *Garton v Hunter (Valuation Officer)* [1969] 2 QB 37, [1969] 1 All ER 451, CA; and see *Baker Britt & Co Ltd v Hampsher (Valuation Officer)* [1975] RA 293, CA; *Lotus & Delta Ltd v Culverwell (Valuation Officer) and Leicester City Council* [1976] RA 141, 21 RRC 1, Lands Tribunal; *United Services and Services Rendered Club (Tooting And Balham) Ltd v Thorneley (Valuation Officer)* [2001] RA 145, Lands Tribunal.

Most of the cases cited in this paragraph were decided prior to the coming into force of the Local Government Finance Act 1988 and, therefore, must now be considered in relation to the non-domestic rating provisions in Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 113 et seq post). As to the historical development of rating law and the continuing relevance of the old case law to the current statutory regime see para 2 ante.

3 See eg *O'Brien v Harwood (Valuation Officer)* [2003] RA 244, Lands Tribunal, where direct rental evidence of value existed and the ratepayer's evidence of receipts was given little weight. As to actual rent being evidence of rental value see para 113 post.

113. Actual rent as evidence of value. The actual rent paid for the hereditament is not conclusive evidence of value[1]. However, where the hereditament is let at what is plainly a rack rent[2], that rent is good evidence of value always provided that it was recently fixed by the 'higgling of the market'[3]. If the actual rent is paid on terms which differ from those of the hypothetical tenancy, it must be adjusted, if possible, to the terms of the hypothetical tenancy before it affords evidence of value. Such adjustments may be necessary to allow, for example, for the burden of rates and taxes, the length of the lease[4] or the provision of landlord's services[5]. Rents paid for comparable hereditaments are relevant evidence, subject to similar considerations[6]. The classes of hereditaments which in practice are most commonly valued by reference to rents are shops, offices, warehouses and other commercial premises[7].

1 *R v London School Board* (1986) 17 QBD 738, CA; *Poplar Metropolitan Borough Assessment Committee v Roberts* [1922] 2 AC 93 at 103, HL, per Lord Buckmaster, and at 107–108 per Lord Atkinson. See also *R v Skingle* (1798) 7 Term Rep 549; *Hayward v Brinkworth Overseers* (1864) 10 LT 608; *R v Paddington Valuation Officer, ex p Peachey Property Corpn* [1964] 3 All ER 200 at 218, [1964] 1 WLR 1186 at 1209, DC (affd [1966] 1 QB 380 at 412–413, [1965] 2 All ER 836 at 848, CA); *Garton v Hunter (Valuation Officer)* [1969] 2 QB 37, [1969] 1 All ER 451, CA; *Baker Britt & Co Ltd v Hampsher (Valuation Officer)* [1976] RA 69, HL; *Orange PCS Ltd v Bradford (Valuation Officer)* [2004] EWCA Civ 155, [2004] 2 All ER 651, [2004] RA 61 (statutory right that the ratepayer had to occupy the land without payment was not determinative of the value of its beneficial occupation, in the same way that an actual rent was not determinative).

Most of the cases cited in this paragraph were decided prior to the coming into force of the Local Government Finance Act 1988 and, therefore, must now be considered in relation to the non-domestic

rating provisions in Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 114 et seq post). As to the historical development of rating law and the continuing relevance of the old case law to the current statutory regime see para 2 ante.

2 Ie a rent equal to the full annual value of the land. Rents paid under the statutory restrictions are not good evidence: *Poplar Metropolitan Borough Assessment Committee v Roberts* [1922] 2 AC 93, HL; *R v Paddington Valuation Officer, ex p Peachey Property Corpn Ltd* [1966] 1 QB 380, [1965] 2 All ER 836, CA; *O'Mere v Burley (Valuation Officer)* (1968) 14 RRC 401, Lands Tribunal; *David v Wyeth (Valuation Officer)* [1974] RA 484, Lands Tribunal; *Hilder v Haysom (Valuation Officer)* [1974] RA 517, Lands Tribunal. As to rents fixed by development corporations for industrial premises see *Homerton Rubber Works Ltd v Morrell (Valuation Officer)* (1958) 3 RRC 306, Lands Tribunal. Cf *Lee (Valuation Officer) v Southwark Manufacturing Co Ltd* [1961] RVR 230, Lands Tribunal. It is always open to either party to show that a rent agreed was a misconception, and that, if the agreement had to be made again, a different rent would be agreed: *East London Rly Joint Committee v Greenwich Union* (1890) Ryde's Rat App (1886–1890) 210 at 219; *Glasspool v Buttery (Valuation Officer)* (1957) 2 RRC 28, Lands Tribunal; *Bell (Valuation Officer) v Perry* [1965] RA 9, Lands Tribunal; *Cash and Carry Cleaners (Merseyside) Ltd v Finch (Valuation Officer)* [1966] RA 454, Lands Tribunal; *Mann (Valuation Officer) v Smiles & Co Ltd* (1968) 15 RRC 72, Lands Tribunal. In *Hodges Ltd v Howells (Valuation Officer)* [1993] RA 236, the Lands Tribunal rejected the actual rent for the subject hereditament on the ground that it was out of line with the general pattern of rents.

3 Rents fixed by tender were rejected as evidence in *WA Rawlinson & Co Ltd v Pritchard (Valuation Officer)* (1958) 4 RRC 178, Lands Tribunal; *Leisure UK Ltd v Moore (Valuation Officer)* [1974] RA 237, Lands Tribunal. Rents fixed as part of a 'sale and lease back' transaction were rejected as evidence in *Binns Ltd v Anderson (Valuation Officer)* (1959) 4 RRC 209, Lands Tribunal; *Trocadero (Swanage) Ltd v Perrins (Valuation Officer)* (1957) 51 R & IT 140, Lands Tribunal; *Lewis Separates v Chapman (Valuation Officer)* (1967) 12 RRC 400, Lands Tribunal; *FW Woolworth & Co Ltd v Christopher (Valuation Officer) and Lincoln City Council* (1972) 17 RRC 341, Lands Tribunal; *John Lewis & Son Ltd v Goodwin (Valuation Officer)* [1980] RA 1, Lands Tribunal; and in *Fusetron Ltd v Whitehouse* [1999] RA 295, Lands Tribunal, rents agreed as part of 'sale and lease back' transactions were regarded as suspect evidence of open market rental values unless supported by other evidence. See also *Hudson & Son Ltd v Rennick (Valuation Officer)* (1959) 5 RRC 221, Lands Tribunal; *Wood v Garvie (Valuation Officer)* [1975] RA 257, Lands Tribunal.

4 See *L & A Black Ltd v Burton (Valuation Officer)* (1958) 3 RRC 172, Lands Tribunal; *Humber Ltd v Jones (Valuation Officer) and Rugby RDC* (1960) 6 RRC 161, CA. As to the conversion of a weekly rent to an annual rent see *LCC v Wand (Valuation Officer)* (1957) 2 RRC 220, Lands Tribunal.

5 See *Bell Property Trust Ltd v Hampstead Borough Assessment Committee* [1940] 2 KB 543, [1940] 3 All ER 640, CA.

6 The Lands Tribunal has in the past adopted the rule that rents fixed after the date of the proposal are inadmissible (*Leicester City Council v Burkitt (Valuation Officer) and Perfecto Engineering Co Ltd* [1965] RA 101, Lands Tribunal; *Gilmore (Valuation Officer) v Baker-Carr (No 2)* [1963] RA 458, Lands Tribunal; *Smith v Moore (Valuation Officer)* [1972] RA 269; *Dunbar v Le Grys (Valuation Officer)* (1978) 21 RRC 88, Lands Tribunal), except to prove or disprove a trend or anticipation at the date of the proposal (*Thomas Ware & Sons Ltd v Toovey (Valuation Officer)* (1959) 6 RRC 216, Lands Tribunal; *British Transport Commission v Hingley and Robinson (Valuation Officers) and Grimsby RDC* (1960) 7 RRC 225, Lands Tribunal; *Frank Mason & Co Ltd v Thomas (Valuation Officer)* [1962] RVR 147, Lands Tribunal; *Robinson v Le Grys (Valuation Officer)* [1969] RA 63, Lands Tribunal), or to show the relative values of hereditaments at the relevant date (*Myers v Glynn (Valuation Officer)* [1973] RA 89; *John Lewis & Co Ltd v Goodwin (Valuation Officer)* [1980] RA 1, Lands Tribunal). However, this rule and these cases require to be read in the light of *Garton v Hunter (Valuation Officer)* [1969] 2 QB 37, [1969] 1 All ER 451, CA, where it was held that all relevant evidence is admissible, and that the goodness or badness of it goes to weight, not to admissibility. Rents fixed by tender are viewed with reserve: see *Thomas Cook Group Ltd v Prince (Valuation Officer)* [1981] RA 17, Lands Tribunal.

7 The larger shops present special problems as there is usually a paucity of rental evidence of similar hereditaments, but rental evidence of small shops is usually available. In order to relate the rents of small shops to large shops, the 'zoning method' is sometimes used: see *Footman, Pretty & Co v Chandler (Valuation Officer)* (1960) 7 RRC 18, Lands Tribunal; *FW Woolworth & Co Ltd v Moore (Valuation Officer)* [1978] RA 186, Lands Tribunal. It may be appropriate to make a 'quantum' or 'quantity' allowance: *FW Woolworth & Co Ltd v Christopher (Valuation Officer) and Lincoln City Council* (1972) 17 RRC 341, Lands Tribunal; *John Lewis & Co Ltd v Goodwin (Valuation Officer)* [1980] RA 1, Lands Tribunal. However, recent valuation practice for large shops suggests a movement away from the 'zoning method' to the 'overall method' in which rents for small shops are not of great assistance; it is now established valuation practice to value large stores on an 'overall' basis: see e g *Harrods Ltd v Baker (Valuation Officer)* [2007] RA 247, Lands Tribunal (appropriate rateable value for Harrods department store), in which the Lands Tribunal provides a helpful analysis of the principles which support that approach as well as the issue of 'quantum' or 'quantity' allowance.

114. Valuation on the 'profits' or 'receipts and expenditure' basis. In the absence of rental evidence of value, the accounts, receipts or profits of the occupier of the hereditament may be relevant[1]. The profits themselves are not rateable[2] but they may serve to indicate the rent at which the hereditament might reasonably be expected to let, especially where the profits can only be earned upon that hereditament and can be earned there by any ordinary tenant. Whether the profits will affect, and how far they will affect, the rent will depend upon the higgling of the market[3]. Profits have been taken into consideration in the valuation for rating of, for instance, public utility undertakings[4], including waterworks[5], docks and harbours[6], light railways[7] and district heating undertakings[8], and also licensed premises[9], railway refreshment rooms[10], hotels[11], a toll bridge[12], race courses[13], football grounds[14], markets[15], mines, quarries and brickfields[16], a zoo[17], a radio relay system[18], piers[19], caravan sites[20], cemeteries[21], crematoria[22] and cinemas[23].

The rent to be ascertained is that which the hypothetical tenant would pay[24]. The inquiry must therefore embrace the whole of the profits made at the hereditament, even though a part of them does not inure to the actual occupier[25], and failure on the part of the occupier to take profits which it is open to him to take must be disregarded[26].

The occupier of a hereditament may be compelled to disclose his trading figures if they are reasonably required to enable the valuation officer accurately to compile the valuation list or to make or object to a proposal[27].

1 *R v London and South Western Rly Co* (1842) 1 QB 558; *R v Grand Junction Rly Co* (1844) 4 QB 18; *Mersey Docks and Harbour Board v Birkenhead Assessment Committee* [1901] AC 175, HL; *Carturright v Sculcoates Union* [1900] AC 150, HL. Cf *Mersey Docks and Harbour Board v Liverpool Overseers* (1873) LR 9 QB 84 at 97; *R v London and North Western Rly Co* (1874) LR 9 QB 134 at 144; *R v North Aylesford Union* (1872) 37 JP 148. See also *O'Brien v Harwood (Valuation Officer)* [2003] RA 244, where little weight was given to the ratepayer's evidence of receipts on the basis that this indirect method of assessing annual value is of limited assistance where direct rental evidence of value exists. For the meaning of 'occupier' see para 13 ante; and for the meaning of 'hereditament' see para 33 et seq ante.

Most of the cases cited in this paragraph were decided prior to the coming into force of the Local Government Finance Act 1988 and, therefore, must now be considered in relation to the non-domestic rating provisions in Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 115 et seq post). As to the historical development of rating law and the continuing relevance of the old case law to the current statutory regime see para 2 ante.

2 *R v Grand Junction Rly Co* (1844) 4 QB 18 at 38 per Lord Denman; *Mersey Docks and Harbour Board v Birkenhead Assessment Committee* [1901] AC 175 at 180–181, HL.

3 See *Talargoch Mining Co v St Asaph's Union* (1868) LR 3 QB 478 at 486 per Blackburn J; *Mersey Docks and Harbour Board v Liverpool Overseers* (1873) LR 9 QB 84 at 96 per Blackburn J; *Aberaman Ex-Servicemen's Club and Institute v Aberdare UDC* [1948] 1 KB 332 at 336–337, sub nom *Aberdare UDC v Pontypridd Area Assessment Committee* [1947] 2 All ER 877 at 878–879, per Atkinson J.

4 Notwithstanding any rule of law requiring the rateable value of a hereditament occupied by a public utility undertaking to be estimated solely by reference to the accounts, receipts or profits of the undertaking, in arriving at an amount under the Local Government Finance Act 1988 Sch 6 para 2(1) (as amended), Sch 6 para 2(1A) (as added) or Sch 6 para 2(1B) (as added) (see para 87 et seq ante) in relation to such a hereditament, any evidence relevant to estimating the amount of rent in accordance with that provision is to be taken into account: see the Non-Domestic Rating (Miscellaneous Provisions) (No 2) Regulations 1989, SI 1989/2303, reg 3; and para 101 ante. As to the valuation of public utility undertakings generally see para 99 et seq ante.

5 See eg *R v Churchwardens and Overseers of Mile End Old Town* (1847) 10 QB 208; *R v West Middlesex Waterworks* (1859) 1 E & E 716; *Kingston Union Assessment Committee v Metropolitan Water Board* [1926] AC 331, HL.

6 See eg *Port of London Authority v Orsett Union Assessment Committee* [1920] AC 273, HL; *R v Southampton Dock Co* (1851) 14 QB 587; *Clayton (Valuation Officer) v British Transport Commission* [1955] 2 All ER 274, [1955] 1 WLR 504, CA; *Bluebell Railway Ltd v Ball (Valuation Officer)* [1984] RA 113, [1984] JPL 887, Lands Tribunal.

7 *Ebbutt (Valuation Officer) v Nottingham Colwick Estates Light Rly Co* (1960) 7 RRC 346, Lands Tribunal; *Winchester and Alton Rly Ltd v Whyment (Valuation Officer)* [1981] RA 258, Lands Tribunal; *Bluebell Railway Ltd v Ball (Valuation Officer)* [1984] RA 113, [1984] JPL 887, Lands Tribunal.

8 *Swindon Borough Council v Tavener (Valuation Officer)* (1952) 45 R & IT 410, Lands Tribunal.

9 See eg *Cartwright v Sculcoates Union* [1900] AC 150, HL; *Robinson Bros (Brewers) Ltd v Houghton and Chester-le-Street Assessment Committee* [1937] 2 KB 445, [1937] 2 All ER 298, CA (affd [1938] AC 321, [1938] 2 All ER 79, HL); *City of Sheffield v John Smith's Tadcaster Brewery Co Ltd and Tranter (Valuation Officer)* (1958) 3 RRC 191, Lands Tribunal. As to the valuation of licensed premises generally see para 109 et seq ante.

10 See *Clark v The Assessment Committee of Alderbury Union and the Overseers of Fisherton-Angar* (1880) 6 QBD 139, DC; *British Transport Commission v Glasgow Assessor* (1957) 51 R & IT 29.

11 See *Burden v Bognor Regis UDC* (1957) 2 RRC 256, Lands Tribunal; *AL Mather Ltd v Cockcroft (Valuation Officer)* (1958) 51 R & IT 819, Lands Tribunal.

12 See *R v Hammersmith Bridge Co* (1849) 15 QB 369.

13 See *R v Verrall* (1875) 1 QBD 9; *Racecourse Betting Control Board v Brighton Corpn* [1941] 2 KB 287, [1941] 2 All ER 595 (affd [1942] 2 KB 90, [1942] 1 All ER 611, CA) (totalisator); *Sandown Park Ltd v Esher UDC and Castle (Valuation Officer)* (1954) 47 R & IT 351, CA.

14 *Hardiman (Valuation Officer) v Crystal Palace Football and Athletic Club Ltd* (1955) 48 R & IT 91, Lands Tribunal. Cf *West Ham United Football Club v Smith (Valuation Officer)* (1957) 1 RRC 263, Lands Tribunal; *March (Valuation Officer) v Gravesend and Northfleet Football Club Ltd* (1959) 4 RRC 299, Lands Tribunal. In *Tomlinson (Valuation Officer) v City of Plymouth and Plymouth Argyle Football Co Ltd* (1958) 4 RRC 272, Lands Tribunal (revsd on other grounds (1960) 53 R & IT 297, CA), a valuation by reference to gate receipts was rejected.

15 *Brecon Markets Co v St Mary's, Brecon* (1877) 36 LT 109; *Taunton Borough Council v Sture (Valuation Officer)* (1958) 4 RRC 32, Lands Tribunal; *Oswestry Corpn v Plumpton (Valuation Officer)* [1962] RVR 44, Lands Tribunal; *Thrapston Market v Newton (Valuation Officer)* [1968] RA 415, Lands Tribunal.

16 See eg *Denaby and Cadeby Colliery Co v Doncaster Union Assessment Committee* (1898) 78 LT 388; *R v Westbrook, R v Everist* (1847) 10 QB 178. Cf *R v North Aylesford Union* (1872) 37 JP 148. As to the valuation of mines, quarries etc generally see para 104 et seq ante.

17 *Surrey County Valuation Committee v Chessington Zoo Ltd* [1950] 1 KB 640, [1950] 1 All ER 154, DC.

18 *Amalgamated Relays Ltd v Burnley Rating Authority* [1950] 2 KB 183, [1950] 1 All ER 253, DC.

19 *Margate Pier and Harbour Co v Yorke (Valuation Officer)* (1955) 48 R & IT 107, Lands Tribunal; *Underdown (Valuation Officer) v Clacton UDC and Clacton Pier Co Ltd* (1958) 3 RRC 274, Lands Tribunal; *Brighton Marine Palace and Pier Co v Rees (Valuation Officer)* [1961] RVR 614, Lands Tribunal.

20 *Bailey v Parsons (Valuations Officer)* (1956) 1 RRC 35, Lands Tribunal; *Bailey v Bognor Regis UDC* (1957) 1 RRC 288, CA; *Hake and Wright v Chandler (Valuation Officer)* (1957) 2 RRC 23, Lands Tribunal (on appeal (1958) 3 RRC 219, CA); *Welford v Cutts (Valuation Officer)* (1958) 3 RRC 323, Lands Tribunal; *Davies v Tavener (Valuation Officer)* (1959) 5 RRC 6. See also *Silvester v Payne (Valuation Officer)* (1959) 4 RRC 315, Lands Tribunal; *Fairlight & Co Ltd v Payne (Valuation Officer)* (1959) 4 RRC 318, Lands Tribunal (camps of holiday chalets); *Isle of Wight RDC v Woodward (Valuation Officer) and Dabell* (1958) 3 RRC 297, Lands Tribunal (natural gorge and model village); *Hodgkinson v Hallett (Valuation Officer)* (1960) 53 R & IT 245, Lands Tribunal (public house and caravan site); *Sussex Caravan Parks Ltd v Richardson (Valuation Officer) and Hastings Borough Council* (1960) 7 RRC 247, Lands Tribunal (revsd [1961] 1 All ER 731, [1961] 1 WLR 561, CA).

21 *R v St Mary Abbot's, Kensington* (1840) 12 Ad & El 824; *R v Abney Park Cemetery Co* (1873) LR 8 QB 515; *R v St Giles, Camberwell Inhabitants* (1850) 14 QB 571. Cf *Bingley UDC v Melville (Valuation Officer)* (1969) 16 RRC 173, Lands Tribunal; *Gudgion (Valuation Officer) v Croydon Borough Council* (1970) 16 RRC 305, Lands Tribunal, where the profits basis was considered inappropriate in respect of cemeteries run at a loss by local authorities.

22 *Melville and Rees (Valuation Officers) v Airedale and Wharfdale Joint Crematorium Committee* [1963] RVR 201, Lands Tribunal.

23 *Rank Organisation Ltd v Billett (Valuation Officer)* (1958) 4 RRC 15, Lands Tribunal.

24 See para 87 et seq ante.

25 *R v Sherford Inhabitants* (1867) LR 2 QB 503; *R v Rhymney Rly Co* (1869) LR 4 QB 276; and see *Davies v Seisdon Union* [1908] AC 315, HL.

26 *Tranter (Valuation Officer) v National Association of Local Government Officers* (1951) 44 R & IT 662, Lands Tribunal; *Welford v Cutts (Valuation Officer)* (1958) 3 RRC 323, Lands Tribunal; *Amble Club Ltd v Robertson (Valuation Officer)* (1958) 4 RRC 9, Lands Tribunal; *Brickwoods Ltd v Cousins (Valuation Officer)* [1968] RA 243, Lands Tribunal; *Sculcoates Union v Kingston-upon-Hull Dock Co* [1895] AC 136 at 147, 148, HL.

27 *Watney Mann Ltd v Langley (Valuation Officer)* [1966] 1 QB 457, [1963] 3 All ER 967. As to valuation officers see para 6 ante. As to rating lists see para 118 et seq post; and as to the alteration of lists see para 128 et seq post.

115. Calculation of value on the 'profits' basis. The method of valuation on the 'profits' basis is first to ascertain the annual value of the undertaking as a whole[1]. If the

undertaking is situated in the area of more than one billing authority[2], it may be necessary to apportion the value so ascertained amongst the various areas concerned[3].

The valuation of the hereditament is based upon the profits which are made or which (subject to any statutory limitations[4]) are capable of being made there[5]. The gross receipts, which form the starting point of the calculation, are those shown in the occupier's accounts for the last account year concluded before the antecedent valuation date[6]; and, if relevant, accounts available at the date of the hearing of an appeal may be admissible in evidence[7].

The gross receipts include any payments (such as the proceeds of water charges) received by the occupier, and proceeds of precepts on other authorities[8]; but contributions made by the government towards the expenses incurred by a water authority in connection with rural water supplies are to be left out of account[9].

When the gross receipts have been ascertained, the next step is to deduct from them the expenses of earning those receipts[10], and the cost of economic repairs, insurance and other expenses necessary to maintain the undertaking in a state to command the hypothetical rent[11]. Provision may be made for a sinking fund for the renewal of any wasting parts of the undertaking[12]. The remaining balance is divisible between the tenant (the 'tenant's share'[13]), the landlord (the hypothetical rent or net annual value) and rates. The tenant's share is often estimated by applying a percentage to the tenant's capital[14], but in other cases it may be taken directly as a proportion of the divisible balance[15] or by applying a percentage to the gross receipts[16].

1 This is commonly known as the 'cumulo'. As to valuation on the profits basis generally see para 114 ante.

2 As to billing authorities see para 5 ante.

3 Given the provisions which govern hereditaments divided by a boundary between billing authorities (see the Non-Domestic Rating (Miscellaneous Provisions) Regulations 1989, SI 1989/1060, reg 6 (as amended); and para 33 note 25 ante) and the fact that many properties of this sort are rated under the central rating list, the occasions on which such apportionment will be necessary are expected to be rare. For the meaning of 'hereditament' see para 33 et seq ante. As to rating lists see para 118 et seq post.

4 *Worcester Corpn v Droitwich Union Assessment Committee* (1876) 2 Ex D 49, CA; *Sculcoates Union v Kingston-upon-Hull Dock Co* [1895] AC 136, HL.

All of the cases cited in this paragraph were decided prior to the coming into force of the Local Government Finance Act 1988 and, therefore, must now be considered in relation to the non-domestic rating provisions in Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 116 et seq post). As to the historical development of rating law and the continuing relevance of the old case law to the current statutory regime see para 2 ante.

5 *Sculcoates Union v Kingston-upon-Hull Dock Co* [1895] AC 136 at 147–148, HL, per Lord Herschell LC. The principle that the premises are to be valued vacant and to let (see para 93 ante) requires that the profits to be considered are those of the hypothetical tenant: *Watney Mann Ltd v Langley (Valuation Officer)* [1966] 1 QB 457 at 476, [1963] 3 All ER 967 at 979; and see the cases cited in para 114 notes 25–26 ante.

6 In *Barking Rating Authority v Central Electricity Board* [1940] 2 KB 51, [1940] 2 All ER 341 (affd [1940] 2 KB 493, [1940] 3 All ER 477, CA), the concern was with accounts and estimates for periods after the date of the proposal, which at that time was the date of valuation. It would seem that applying the same principles in the context of the Local Government Finance Act 1988, the appropriate accounts are those for the year before the antecedent valuation date.

7 *Bwllfa and Merthyr Dare Steam Collieries (1891) Ltd v Pontypridd Waterworks Co* [1903] AC 426, HL; *LCC v Tobin* [1959] 1 All ER 649, [1959] 1 WLR 354, CA; *Lincolnshire Sugar Co Ltd v Smart (HM Inspector of Taxes)* [1937] 1 All ER 413 at 419, HL, per Lord Macmillan; *British Transport Commission v Hingley and Robinson (Valuation Officers) and Grimsby RDC* (1960) 7 RRC 225, Lands Tribunal; *Garton v Hunter (Valuation Officer)* [1969] 2 QB 37, [1969] 1 All ER 451, CA.

8 *Dewsbury and Heckmondwike Waterworks Board v Penistone Union Assessment Committee* (1886) 17 QBD 384, CA; *Merthyr Tydfil Local Board of Health v Merthyr Tydfil Assessment Committee* [1891] 1 QB 186. Proceeds from precepts are part of the gross receipts notwithstanding that the precepts are levied in respect of works under construction and not yet in beneficial occupation: *Mid-Northamptonshire Water Board v Lee (Valuation Officer)* [1958] AC 68, [1957] 2 All ER 143, HL. The proceeds of a rate levied to pay off an old accumulated debt of a gas undertaking were excluded from the gross receipts in *Lanarkshire Assessor v Lanarkshire County Council* 1933 SC 355. In *Denny and Dunipace Magistrates v Stirlingshire Assessor*

1933 SC 388, the proportion of an exchequer grant applicable to a deficiency in the accounts of a municipal water undertaking was included in the gross receipts of the undertaking, but an unemployment grant was excluded from the gross receipts as being exceptional in character.

9 See the Water Industry Act 1991 s 151(3) (repealed subject to savings); and WATER vol 49(3) (2004 Reissue) para 622 et seq.

10 Directors' fees may be allowed as an expense: *R v Southampton Dock Co* (1851) 14 QB 587; *Welwyn Garden City Electricity Co Ltd v Barnet Assessment Committee* (1938) 29 R & IT 88; *St Albans City Council v St Albans Waterworks Co and Clare (Valuation Officer)* (1954) 47 R & IT 191, Lands Tribunal; *Margate Pier and Harbour Co v Yorke (Valuation Officer)* (1955) 48 R & IT 107, Lands Tribunal; *Brighton Marine Palace and Pier Co v Rees (Valuation Officer)* [1961] RVR 614, Lands Tribunal. However, no deduction falls to be made for income tax (*R v Southampton Dock Co* supra) or any additional tax (*Yeovil RDC v South Somerset and District Electricity Co Ltd* [1948] 1 KB 130, [1947] 1 All ER 669, CA), although liability to additional tax may be taken into account in fixing the tenant's share of profits (*Yeovil RDC v South Somerset and District Electricity Co Ltd* supra).

11 Ie expenses which fall on the hypothetical tenant under the statutory hypothesis which is used for assessing rateable value (see para 87 et seq ante).

12 *R v London, Brighton and South Coast Rly Co* (1851) 15 QB 313 at 364–366; *Birmingham City Council v Bromsgrove RDC and Linley (Valuation Officer)* (1955) 48 R & IT 511, 530, Lands Tribunal. A reservoir is not an appropriate subject for a sinking fund: *Birmingham City Council v Bromsgrove RDC and Linley (Valuation Officer)* supra. Cf *Humber Ltd v Jones (Valuation Officer) and Rugby RDC* (1959) 5 RRC 23, Lands Tribunal (on appeal on other points (1960) 53 R & IT 293, CA). A pier with a structural life of 100 years may be the subject of a sinking fund: *Underdown (Valuation Officer) v Clacton UDC and Clacton Pier Co Ltd* (1958) 3 RRC 274, Lands Tribunal; *Brighton Marine Palace and Pier Co v Rees (Valuation Officer)* [1961] RVR 614, Lands Tribunal.

13 The tenant's share must cover interest on tenant's capital, remuneration for his industry and compensation for risk: *St James' and Pall Mall Electric Light Co Ltd v Westminster Assessment Committee* [1934] AC 33 at 42, HL, per Lord Atkin; *Railway Assessment Authority v Southern Rly Co* [1936] AC 266, [1936] 1 All ER 26, HL. Cf *London Midland and Scottish Rly Co v Assessor of Railways and Canals Scotland* 1933 SC 590.

14 See eg *R v Southampton Dock Co* (1851) 14 QB 587; *Underdown (Valuation Officer) v Clacton UDC and Clacton Pier Co Ltd* (1958) 3 RRC 274, Lands Tribunal.

15 See eg *AL Mather Ltd v Cockcroft (Valuation Officer)* (1958) 51 R & IT 819, Lands Tribunal; *Silvester v Payne (Valuation Officer)* (1959) 4 RRC 315, Lands Tribunal; *Fairlight & Co Ltd v Payne (Valuation Officer)* (1959) 4 RRC 318, Lands Tribunal; *Isle of Wight RDC v Woodward (Valuation Officer) and Dabell* (1958) 3 RRC 297, Lands Tribunal; *City of Sheffield v John Smith's Tadcaster Brewery Co Ltd and Tranter (Valuation Officer)* (1958) 3 RRC 191, Lands Tribunal; *Williamson (Valuation Officer) v Hayes and Hauber's Executors and Trustees of Roman Catholic Diocese of Southwark* (1959) 5 RRC 119, Lands Tribunal.

16 In practice, this was commonly done in the case of water undertakings because so little tenant's capital was needed that a calculation of tenant's share on that basis would give a fallacious result.

116. Valuation with reference to cost of construction: the 'contractor's basis'. Where actual rents do not afford sufficient evidence of annual rental value, a percentage of the cost of construction or structural value of the hereditament, or of a substitute hereditament, is sometimes taken as evidence[1]. The 'contractor's basis' (as this method is called) is applied in five stages[2]: (1) estimation of the cost of construction of a replacement hereditament[3]; (2) adjustment to reflect differences between the actual hereditament and the alternative, thus arriving at the effective capital value[4]; (3) addition of the value of the land on which the hereditament stands[5]; (4) decapitalisation of the effective capital value by application of the appropriate percentage[6]; and (5) final adjustment by the valuer to ensure that his valuation has taken into account all factors affecting value and that the result reflects what the prospective tenant would be willing and able to pay[7].

This method of valuation has been applied, for instance, to the indirectly productive parts of public utility undertakings (such as waterworks[8]), to a chemical works[9], to municipal property (such as schools[10], sewage treatment works[11], former sewage systems[12], a town hall[13], a fire station[14], a swimming pool[15], a local authority leisure centre[16] and public conveniences[17]), to a magistrates' court[18], to colleges and university buildings[19], public schools[20], a geological museum[21], a lighthouse[22], an old people's home[23], a nursing home[24], a community centre[25], a football stadium[26], a cricket

ground[27], an indoor bowling stadium[28], a tennis centre[29], an airport[30], coke ovens[31], a factory[32], a broiler house[33], a car park[34], and to plant and machinery[35]. However, the selling price of houses[36] and the capital value of licensed premises[37] have been discounted as evidence.

1 Although the statutory measure of rateable value is the rent which might reasonably be expected (see para 87 et seq ante), interest on cost or capital value may be evidence of what a tenant might reasonably be expected to pay. The explanation for the use of this method of valuation (often referred to as the 'contractor's basis') is that the hypothetical tenant will be unwilling to pay more as an annual rent than it would cost him in annual interest on the capital sum necessary to build a similar hereditament (the 'effective capital value'): see *Dawkins (Valuation Officer) v Royal Leamington Spa Borough Council and Warwickshire County Council* [1961] RVR 291 at 295, Lands Tribunal, per Sir William FitzGerald, citing the argument of Sir Jocelyn Simon QC; approved in *Cardiff Corpn v Williams (Valuation Officer)* [1973] RA 46 at 51–52, 18 RRC 1 at 22–23, CA, per Lord Denning. However, this method may do no more than indicate an upper limit (*Crofton Investment Trust Ltd v Greater London Rent Assessment Committee* [1967] 2 QB 955, [1967] 2 All ER 1103, DC) and the annual rent resulting ought to be much below the interest charge in order to allow for any appreciation in capital value that accrues to an owner-occupier (*vice* yearly tenant) over time (see *Cardiff Corpn v Williams (Valuation Officer)* supra at 51–52 and 22–23 per Lord Denning). See also *Monsanto plc v Farris (Valuation Officer)* [1999] 1 EGLR 199, [1998] RA 107, Lands Tribunal.

The use of this method of valuation in appropriate cases is amply supported by authority: see e g *R v London School Board* (1855) 55 LJMC 33 at 38 (on appeal (1886) 17 QBD 738, CA); *Liverpool Corpn v Llanfyllin Assessment Committee* [1899] 2 QB 14 at 20–22, CA; *Robinson Bros (Brewers) Ltd v Houghton and Chester-le-Street Assessment Committee* [1937] 2 KB 445 at 481, [1937] 2 All ER 298 at 315, CA; *Imperial College of Science and Technology v Ebdon (Valuation Officer)* [1986] RA 233, [1987] 1 EGLR 164, CA; but c f *Great Central Rly Co v Banbury Union* [1909] AC 78 at 86–87, HL. Even where rental evidence is available, a valuation on the contractor's basis is admissible: *Garton v Hunter (Valuation Officer)* [1969] 2 QB 37, [1969] 1 All ER 451, CA.

Most of the cases cited in this paragraph were decided prior to the coming into force of the Local Government Finance Act 1988 and, therefore, must now be considered in relation to the non-domestic rating provisions in Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 117 et seq post). As to the historical development of rating law and the continuing relevance of the old case law to the current statutory regime see para 2 ante.

2 See *Gilmore (Valuation Officer) v Baker-Carr (No 2)* [1964] RVR 7, where the five stages were referred to. See also *Imperial College of Science and Technology v Ebdon (Valuation Officer)* [1984] RA 213, Lands Tribunal; affd [1986] RA 233, [1987] 1 EGLR 164, CA, where a possible sixth stage was suggested. In *Monsanto plc v Farris (Valuation Officer)* [1999] 1 EGLR 199, [1998] RA 107, Lands Tribunal, it was stated that an economic framework for valuation should be maintained to afford credibility to the contractor's basis of valuation but that such a framework can be preserved without a literal interpretation of the principles cited in *Dawkins (Valuation Officer) v Royal Leamington Spa Borough Council and Warwickshire County Council* [1961] RVR 291, Lands Tribunal (see note 1 supra) by the device of regarding the hypothetical tenant as a prospective purchaser of the hereditament for stages 1, 2 and 3 of the valuation (see heads (1)–(3) in the text) (the 'capital sum stages') and then as the hypothetical tenant of rating for stages 4 and 5 (see heads (4) and (5) in the text) (the 'annual value stages').

3 It is disputed whether one should assess the cost of replacing the actual building or the cost of constructing an alternative building. Where the building on the hereditament is old-fashioned, has excessive ornamentation or much excess capacity, it is sometimes convenient to cost not a replica of the actual building but a modern equivalent. The replacement of the actual building method was preferred in *Magdalen, Jesus and Keble Colleges, Oxford v Howard (Valuation Officer) and City of Oxford* (1959) 5 RRC 122, Lands Tribunal (on appeal [1961] RVR 22, CA); *Downing, Newnham, Churchill and King's Colleges, Cambridge v City of Cambridge and Allsop (Valuation Officer)* [1968] RA 603, Lands Tribunal; *St Catherine's, St Hilda's and Magdalen Colleges, Oxford v Howard (Valuation Officer) and City of Oxford* [1968] RA 627, Lands Tribunal. See also *Shrewsbury Schools v Shrewsbury Borough Council and Plumpton (Valuation Officer)* (1960) 7 RRC 313, Lands Tribunal. The substitute building method was preferred in *Dawkins (Valuation Officer) v Royal Leamington Spa Borough Council and Warwickshire County Council* [1961] RVR 291, Lands Tribunal.

4 This includes taking into account the building's excess capacity and technical obsolescence: see note 3 supra. In *Eastbourne Borough Council v Allen (Valuation Officer)* [2001] RA 273, Lands Tribunal, the application of the contractor's basis to the existing elderly facilities presented a number of problems and valuing a 'modern simple substitute' was agreed in that case to be the best way to take account of such problems.

5 The land must be valued as if it is limited to its existing use with its existing buildings. See eg *Oxford University v Oxford Corpn* (1902) Ryde & K Rat App 87; *Dawkins (Valuation Officer) v Royal Leamington Spa Borough Council and Warwickshire County Council* [1961] RVR 291, Lands Tribunal; *Oswestry Corpn v Plumpton (Valuation Officer)* (1961) 9 RRC 153, Lands Tribunal; *Downing, Newnham, Churchill and King's Colleges, Cambridge v City of Cambridge and Allsop (Valuation Officer)* [1968] RA 603, Lands Tribunal.

6 The Local Government Finance Act 1988 s 56(1), Sch 6 para 2(8) (as amended) (see para 96 ante) empowers the Secretary of State (or the Welsh Ministers, as the case may now be) to prescribe the decapitalisation rate. This power has been exercised in relation to all rating lists compiled since 1 April 1990: see the Non-Domestic Rating (Miscellaneous Provisions) (No 2) Regulations 1989, SI 1989/2303, reg 2 (amended by SI 1993/544; SI 1994/3122; in relation to England only by SI 2000/532; SI 2004/1494; in relation to Wales only by SI 2000/908; SI 2004/1000). As to the Secretary of State and the Welsh Ministers see para 3 ante. The purpose of the prescribed decapitalisation rate is discussed in *Eastbourne Borough Council v Allen (Valuation Officer)* [2001] RA 273, Lands Tribunal; and *Lavery (Valuation Officer) v Leeds City Council* [2002] RA 165, Lands Tribunal.

7 As to some of the factors which may be applied in assessing what a hypothetical tenant would pay see *Cardiff Corpn v Williams (Valuation Officer)* [1973] RA 46 at 51–52, 18 RRC 1 at 22–23, CA, per Lord Denning (teachers' training college). Where specifically targeted capital grants have been paid, an apportioned and discounted sum (relative to instalments) is properly deducted before the finalisation of the effective capital value: *Monsanto plc v Farris (Valuation Officer)* [1999] 1 EGLR 199, [1998] RA 107, Lands Tribunal (impact of the grant regime upon rental values of industrial or kindred hereditaments in the local market at the material date should be used to judge the effect, if any, upon rental value of the subject hereditament). As to this final stage of the method see also *Eastbourne Borough Council v Allen (Valuation Officer)* [2001] RA 273, Lands Tribunal; *Lavery (Valuation Officer) v Leeds City Council* [2002] RA 165, Lands Tribunal; and *Winchester City Council v Handcock (Valuation Officer)* [2006] RA 265, Lands Tribunal.

8 See eg *R v West Middlesex Waterworks* (1859) 28 LJMC 135; *Kingston Union Assessment Committee v Metropolitan Water Board* [1926] AC 331, HL; *Liverpool Corpn v Llanfyllin Assessment Committee* [1899] 2 QB 14, CA; *Liverpool Corpn v Chorley Union Assessment Committee and Withnell Overseers* [1912] 1 KB 270, CA (affd [1913] AC 197, HL). However, in *City of Birmingham Water Department v Hughes (Valuation Officer) and Knighton RDC* (1957) 2 RRC 248, Lands Tribunal, no allowance for age and obsolescence was made.

9 *Monsanto plc v Farris (Valuation Officer)* [1999] 1 EGLR 199, [1998] RA 107, Lands Tribunal.

10 *R v London School Board* (1886) 17 QBD 738, CA; *London School Board v Wandsworth and Clapham Unions Assessment Committee* (1900) Ryde & K Rat App 24, DC; *Dawkins (Valuation Officer) v Royal Leamington Spa Corpn Borough Council and Warwickshire County Council* [1961] RVR 291, Lands Tribunal.

11 *Winchester City Council v Handcock (Valuation Officer)* [2006] RA 265, Lands Tribunal.

12 *Hall v Seisdon Union Assessment Committee* (1912) 77 JP 17, DC; *Davies v Seisdon Union* [1907] 1 KB 630, CA (affd [1908] AC 315, HL); cf *LCC v Churchwardens etc of Erith Parish and Dartford Union Assessment Committee* [1893] AC 562, HL.

13 *Chandler (Valuation Officer) v East Suffolk County Council* (1958) 3 RRC 328, Lands Tribunal.

14 *North Riding of Yorkshire County Council v Bell (Valuation Officer)* (1958) 3 RRC 133, Lands Tribunal.

15 *Woking UDC v Baker (Valuation Officer)* (1959) 4 RRC 330, Lands Tribunal.

16 *Eastbourne Borough Council v Allen (Valuation Officer)* [2001] RA 273, Lands Tribunal.

17 *Bell (Valuation Officer) v Colne Borough Council* (1959) 6 RRC 36, Lands Tribunal.

18 *Lavery (Valuation Officer) v Leeds City Council* [2002] RA 165, Lands Tribunal.

19 *Oxford University v Oxford Corpn* (1902) Ryde & K Rat App 87 (quarter sessions); *Magdalen, Jesus and Keble Colleges, Oxford v Howard (Valuation Officer) and City of Oxford* (1959) 5 RRC 122, Lands Tribunal (on appeal [1961] RVR 22, CA); *Leeds University v Leeds City Council and Burge (Valuation Officer)* [1962] RVR 311, Lands Tribunal; *Downing, Newnham, Churchill and King's Colleges, Cambridge v City of Cambridge and Allsop (Valuation Officer)* [1968] RA 603, Lands Tribunal; *St Catherine's, St Hilda's and Magdalen Colleges, Oxford v Howard (Valuation Officer) and City of Oxford* [1968] RA 627, Lands Tribunal; *Imperial College of Science and Technology v Ebdon (Valuation Officer)* [1986] RA 233, [1987] 1 EGLR 164, CA.

20 *Shrewsbury Schools v Shrewsbury Borough Council and Plumpton (Valuation Officer)* (1960) 7 RRC 313, Lands Tribunal; *Shrewsbury Schools Governors v Hudd (Valuation Officer)* [1966] RA 439, Land Tribunal; *Eton College (Provost and Fellows) v Lane (Valuation Officer) and Eton RDC* (1971) 17 RRC 152, Lands Tribunal.

21 *Cambridge University v Cambridge Union* (1905) 1 Konst Rat App 105.

22 *Lancaster Port Comrs v Barrow-in-Furness Overseers* [1897] 1 QB 166, DC.

23 *Davey (Valuation Officer) v God's Port Housing Society Ltd* (1958) 4 RRC 18, Lands Tribunal.

24 *Leicester City Council v Nuffield Nursing Homes Trust* [1979] RA 299.

25 *West Linton and District Community Centre Trustees v Assessor for East Lothian, Berwick and Peebles* [1963] 3 RVR 12, Lands Tribunal for Scotland.

26 *Tomlinson (Valuation Officer) v City of Plymouth and Plymouth Argyle Football Co Ltd* (1958) 4 RRC 272, Lands Tribunal; on appeal (1960) 6 RRC 173, CA.

27 *Warwickshire County Cricket Club v Rennick (Valuation Officer)* (1959) 5 RRC 322, Lands Tribunal. Cf *Marylebone Cricket Club v Morley* (1959) 6 RRC 258, Lands Tribunal.
28 *Lanarkshire Assessor v Lanarkshire Indoor Bowling Club* [1965] RA 497.
29 *Willacre Ltd (t/a David Lloyd Slazenger Racquet Club) v Bond (Valuation Officer)* [1987] RA 199, [1986] 1 EGLR 224, Lands Tribunal.
30 *Coppin v East Midlands Airport Joint Committee* (1970) 16 RRC 386, Lands Tribunal; on appeal [1971] RA 449, 17 RRC 31, CA.
31 *Birchenwood Gas and Coke Co Ltd v Hampshire (Valuation Officer)* (1959) 4 RRC 303, Lands Tribunal. Cf *Thomas (Valuation Officer) v Manor Vinegar Brewery Co Ltd* (1960) 6 RRC 353, Lands Tribunal (vinegar vats).
32 *British Aluminium Co Ltd v Inverness-shire Assessor* 1937 SC 566.
33 *Gilmore (Valuation Officer) v Baker-Carr (No 2)* [1963] RA 458, Lands Tribunal.
34 *Stoke on Trent City Council v McMillan (Valuation Officer)* [1979] RA 359, Lands Tribunal; cf *National Car Parks Ltd v Gudgion (Valuation Officer)* [1979] RA 85, Lands Tribunal.
35 See eg *Birchenwood Gas and Coke Co Ltd v Hampshire (Valuation Officer)* (1959) 4 RRC 303, Lands Tribunal; *Thomas (Valuation Officer) v Manor Vinegar Brewery Co Ltd* (1960) 6 RRC 353, Lands Tribunal; *Shell-Mex and BP Ltd v James (Valuation Officer)* [1961] RVR 106, Lands Tribunal; *Staffordshire Potteries (Holdings) Ltd v Garner (Valuation Officer)* [1967] RA 31, Lands Tribunal.
36 *Peche v Wilkins (Valuation Officer)* (1959) 4 RRC 49, CA; *Sole v Henning (Valuation Officer)* [1959] 3 All ER 398, [1959] 1 WLR 769, CA; *Munday v Mason (Valuation Officer)* (1960) 7 RRC 109, CA; *Daniels v Peak (Valuation Officer)* [1964] RA 113, CA; see also *Nicholls v Blyth (Valuation Officer)* (1957) 2 RRC 6 at 9, Lands Tribunal; *Eastaway v Rees (Valuation Officer)* (1957) 2 RRC 147 at 150, Lands Tribunal. However, capital values may not be wholly irrelevant: see *Barnard and Barnard v Walker (Valuation Officer)* [1975] RA 383, Lands Tribunal; *Barb v Hayes (Valuation Officer)* (1978) 21 RRC 128, Lands Tribunal.
37 *City of Sheffield v John Smith's Tadcaster Brewery Co Ltd and Tranter (Valuation Officer)* (1958) 3 RRC 191, Lands Tribunal.

117. Evidence of assessments of comparable hereditaments. Evidence may be given of the assessments of comparable hereditaments[1]. To be of use the comparable hereditaments should normally[2] be drawn from the same area as the hereditament under review[3], although this limitation does not apply if the purpose of referring to the comparable hereditaments is to establish valuation practice and method[4]. Comparable assessments may be of little evidential value early in the life of a list when the 'tone of the list' has yet to be established[5]. An assessment under appeal is normally excluded from consideration[6]. A valuation officer will not be allowed to impugn his own list[7]. The admissibility of assessments does not render admissible statements as to the basis of assessment made by a valuation officer who is not party to the proceedings[8].

1 *Pointer v Norwich Assessment Committee* [1922] 2 KB 471, CA; *Stockbridge Mill Co Ltd v Central Land Board* [1954] 2 All ER 360, [1954] 1 WLR 886, CA; *Howarth v Price (Valuation Officer)* (1965) 11 RRC 196, Lands Tribunal; *Cross (F) & Sons v Spencer (Valuation Officer)* [2000] RA 71, Lands Tribunal (valuation based on comparable assessment with allowances for poor location and fact that ratepayer was only potential tenant); *Banks (H J) & Co Ltd v Speight (Valuation Officer)* [2005] RA 61, Lands Tribunal (comparison of rental values the correct comparative measure). Cf *Lamb v Minards (Valuation Officer)* [1974] RA 153, Lands Tribunal.

Most of the cases cited in this paragraph were decided prior to the coming into force of the Local Government Finance Act 1988 and, therefore, must now be considered in relation to the non-domestic rating provisions in Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 118 et seq post). As to the historical development of rating law and the continuing relevance of the old case law to the current statutory regime see para 2 ante.

2 Assessments from a wide area have been admitted in relation to a golf club (*Stourbridge Golf Club Ltd v Clark (Valuation Officer)* (1959) 5 RRC 38, Lands Tribunal; cf *Prince's Golf Club (Sandwich) Ltd v Millwood (Valuation Officer)* [1961] RVR 246, Lands Tribunal); an advertising station (*Frank Mason & Co Ltd v Thomas (Valuation Officer)* [1962] RVR 147, Lands Tribunal); a petrol filling station (*Petrofina (GB) Ltd v Dalby (Valuation Officer)* [1967] RA 143, Lands Tribunal); a hotel (*Strand Hotels Ltd v Hampsher (Valuation Officer)* [1977] RA 265, Lands Tribunal); a public school (*Shrewsbury Schools v Shrewsbury Borough Council and Plumpton (Valuation Officer)* (1960) 7 RRC 313, Lands Tribunal); universities (*Imperial College of Science and Technology v Ebdon (Valuation Officer)* [1986] RA 233, [1987] 1 EGLR 164, CA); and private opencast coal sites (*Banks (H J) & Co Ltd v Speight (Valuation Officer)* [2005] RA 61, Lands Tribunal).

3 *Eastaway v Rees (Valuation Officer)* (1957) 2 RRC 147, Lands Tribunal; *William Hill (Hove) Ltd v Burton (Valuation Officer)* (1958) 3 RRC 355, Lands Tribunal. However, this does not necessarily mean the same

billing authority area: *Sleet v Holman (Valuation Officer)* [1966] RA 589, Lands Tribunal; *Royal Naval Association (Runcorn Branch) v Owen (Valuation Officer) and Runcorn UDC* (1967) 13 RRC 58, Lands Tribunal. As to billing authorities see para 5 ante.

4 *William Hill (Hove) Ltd v Burton (Valuation Officer)* (1958) 3 RRC 355, Lands Tribunal; *Footman, Pretty & Co v Chandler (Valuation Officer)* (1960) 7 RRC 18, Lands Tribunal; cf *Harrow Corpn v Betts (Valuation Officer)* (1960) 7 RRC 328, Lands Tribunal.

5 *Marks v Eastaugh (Valuation Officer)* [1993] RA 11, Lands Tribunal. See also *K Shoe Shops Ltd v Hardy (Valuation Officer)* [1983] 3 All ER 609, [1983] 1 WLR 1273, HL; and *Jafton Properties Ltd v Prisk (Valuation Officer)* [1997] RA 137, Lands Tribunal. In the latter case, three stages were identified leading to the establishment of 'tone of the list', the final stage being reached when enough assessments of comparable hereditaments have been settled or are unchallenged to establish a pattern of established values: see *Jafton Properties Ltd v Prisk (Valuation Officer)* supra at 166–167. For recent cases in which, by reference to the earlier authorities, the Lands Tribunal has examined the principles upon which evidence of assessments of comparable hereditaments is relied upon for the purposes of determining rateable value, and the stages against which the question whether a 'tone of the list' has been established falls to be considered, see *Banks (H J) & Co Ltd v Speight (Valuation Officer)* [2005] RA 61, Lands Tribunal; and *O'Brien v Harwood (Valuation Officer)* [2003] RA 244, Lands Tribunal.

6 *Thomas Scott & Sons (Bakers) Ltd v Davis (Valuation Officer)* [1969] RA 444, Lands Tribunal.

7 *Borroughs Machines Ltd v Mooney (Valuation Officer)* (1976) 20 RRC 324, Lands Tribunal; *Mitchelhill v Slingsby (Valuation Officer)* (1978) 21 RRC 261, Lands Tribunal; *Banks (H J) & Co Ltd v Speight (Valuation Officer)* [2005] RA 61, Lands Tribunal.

8 *Austin Motor Co Ltd v Woodward (Valuation Officer)* [1968] RA 133, Lands Tribunal.

(7) RATING LISTS

(i) Introduction

118. Historical background. Prior to the Local Government Finance Act 1988, valuation officers prepared and maintained valuation lists for each rating area under the General Rate Act 1967 (now repealed)[1]. Valuation lists contained a description of every hereditament[2] in a rating area, including all domestic or non-domestic property and its value. No distinction was made as between residential and other types of hereditament in the way in which they were treated for rating purposes. Entries in the valuation lists could be subject to objections by persons aggrieved[3], and objections could result in appeals provided for by statutory procedure. As originally enacted, the General Rate Act 1967 provided for new valuation lists to be prepared every five years, but later this was altered by new lists being prepared so as to come into force on 1 April in such year as the Secretary of State specified by order[4]. Every hereditament had to be entered in the list, whether occupied or not[5]. Amendments could be made to the list by proposals from either the valuation officer or persons aggrieved[6]. Generally, alterations had effect from the date the list was made, except where the list was altered to include newly erected or altered hereditaments[7]. Appeals against an entry in the valuation list were heard by local valuation courts[8], with a further right of appeal to the Lands Tribunal[9] and thence to the Court of Appeal on a point of law by way of case stated[10].

1 A rating area was an area covered by a rating authority. Outside the London area, the rating authorities were the district councils; in London, the rating authorities were the London borough councils and the Common Council for the City of London: see the General Rate Act 1967 s 1 (repealed). As to rating lists see Pt V (ss 67–95) (repealed). As to valuation officers see para 6 ante. As to local government areas and authorities in England and Wales and their councils generally see LOCAL GOVERNMENT vol 29(1) (Reissue) paras 25 et seq, para 41 et seq. As to London boroughs and their councils see LOCAL GOVERNMENT vol 29(1) (Reissue) para 24 et seq; and LONDON GOVERNMENT vol 29(2) (Reissue) para 30 et seq. As to the Common Council of the City of London see LONDON GOVERNMENT vol 29(2) (Reissue) para 51 et seq. As to the historical development of rating law see para 2 ante.

2 For the meaning of 'hereditament' see para 33 et seq ante.

3 For rating purposes, a person aggrieved was usually the ratepayer, but it could be the rating authority, a ratepayer in the same area, or a managing agent of premises who received the rents: see generally *Arsenal*

Football Club Ltd v Smith (Valuation Officer) [1979] AC 1, [1977] 2 All ER 267, HL; *R v Paddington Valuation Officer, ex p Peachey Property Corpn Ltd* [1966] 1 QB 380, [1965] 2 All ER 836, CA.

4 See the General Rate Act 1967 ss 67, 68 (both repealed).

5 See *R v Malden Overseers* (1869) LR 4 QB 326, DC; and see *R v The Assessment Committee of the City of London Union* [1907] 2 KB 764 at 789–790, CA, per Fletcher Moulton LJ.

6 As to proposals to alter lists under the General Rate Act 1967 see s 69 (repealed); and as to transitional provisions in relation to non-water hereditaments of a statutory water undertaking see the Local Government Finance Act 1988 s 123.

7 See the General Rate Act 1967 s 79 (repealed).

8 See ibid ss 73–76, 88–95 (repealed).

9 See ibid s 77 (repealed). As to appeals to the Lands Tribunal see paras 165–167 post; and COMPULSORY ACQUISITION OF LAND vol 8(1) (2003 Reissue) para 202 et seq.

10 As to appeal to the Court of Appeal see paras 168–169 post.

119. Position under the Local Government Finance Act 1988. Under the Local Government Finance Act 1988, rating was abolished in relation to domestic property[1]. Valuation officers[2] now have to compile local non-domestic rating lists[3] and central non-domestic rating lists[4], which contain details of all non-domestic hereditaments[5]. Hereditaments in the central valuation list are those designated by regulation by the Secretary of State (or the Welsh Ministers, as the case may be)[6]. The lists are to be prepared every five years and maintained throughout each five yearly period by the valuation officer[7], who may cause an alteration to be made to the list[8]. Proposals may be made by a ratepayer to alter the entry in the valuation list[9]. Where the alteration is disputed by the valuation officer, an appeal may be heard by a local valuation tribunal[10] to determine the correct entry in the list. An appeal lies from the decision of that tribunal to the Lands Tribunal[11], and from there to the Court of Appeal on a point of law by way of case stated[12].

1 The Local Government Finance Act 1988 Pt I (ss 1–31), Pt II (ss 32–40) (all repealed) introduced the community charge, which was itself abolished and replaced with the council tax, by virtue of the Local Government Finance Act 1992 ss 100, 117, Sch 13 (as amended), Sch 14: see para 227 et seq post.

2 As to valuation officers see para 6 ante.

3 As to local non-domestic rating lists see para 121 et seq post.

4 As to central non-domestic rating lists see para 125 et seq post.

5 As to rating lists generally see para 9 ante. For the meaning of 'hereditament' see para 33 et seq ante.

6 See the Central Rating List (England) Regulations 2005, SI 2005/551 (as amended); the Central Rating List (Wales) Regulations, SI 2005/422 (as amended); and para 127 post. As to hereditaments in the central non-domestic rating lists see para 126 post. As to the Secretary of State and the Welsh Ministers and as to the making of regulations under the Local Government Finance Act 1988 see para 3 ante.

7 As to the compilation of local non-domestic rating lists see para 121 post; and as to the compilation of central non-domestic rating lists see para 125 post.

8 As to alterations to lists by the valuation officer see paras 130–139 (local non-domestic rating lists), 140 post (central non-domestic rating lists).

9 As to the making of proposals see paras 130 et seq post (local non-domestic rating lists), 140 et seq post (central non-domestic rating lists).

10 As to appeals to a valuation tribunal see para 151 et seq post. There is also provision for arbitration: see para 164 post.

11 As to appeals to the Lands Tribunal see para 165 et seq post.

12 See paras 168–169 post.

120. Definition of 'domestic property' for non-domestic rating purposes. For the purposes of the non-domestic rating provisions[1], property is domestic if[2]: (1) it is used wholly for the purposes of living accommodation[3]; (2) it is a yard, garden[4], outhouse[5] or other appurtenance[6] belonging to or enjoyed with property falling within head (1) above[7]; (3) it is a private garage which either has a floor area of 25 square metres or less or is used wholly or mainly for the accommodation of a private motor vehicle[8]; or (4) it is private storage premises used wholly or mainly for the storage of articles of domestic use[9].

Property is not domestic if it is wholly or mainly used in the course of a business[10] providing short-stay accommodation[11]. However, this definition does not apply if: (a) it is intended that in the year being considered[12], short-stay accommodation will not be provided within the hereditament[13] for more than six persons simultaneously[14]; and (b) the person intending to provide such accommodation intends to have his sole or main residence within that hereditament at the same time, and that any use of living accommodation within the hereditament which would otherwise cause it to be treated as non-domestic will be subsidiary to the use of the hereditament for, or in connection with, his sole or main residence[15].

A building or self-contained part of a building is not domestic property if: (i) the relevant person[16] intends that in the year being considered[17], the whole of the building or self-contained part will be available for letting commercially, as self-contained accommodation for short periods totalling 140 days or more[18]; and (ii) on that day his interest in the building or part is such as to enable him to let it for such periods[19]. Where the building or self-contained part is used as the sole or main residence of any person it will be domestic property[20].

Property is not domestic if it is timeshare accommodation[21]; but caravan pitches[22] and moorings[23] are domestic property if certain circumstances are present.

Property not in use is domestic if it appears that when next in use it will be domestic[24].

1 Ie for the purposes of the Local Government Finance Act 1988 Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 121 et seq post): see s 67(13).

2 See ibid s 66(1) (amended by the Standard Community Charge and Non-Domestic Rating (Definition of Domestic Property) Order 1990, SI 1990/162, art 3). The Local Government Finance Act 1988 s 66(1) (as amended) is subject to s 66(2) (as substituted) (see the text and notes 10–11 infra), s 66(2B) (as added) (see the text and notes 16–19 infra) and s 66(2E) (as added) (see the text and note 21 infra): see s 66(1) (as so amended). The Secretary of State (or the Welsh Ministers, as the case may be) may by order amend, or substitute another definition for, any definition of domestic property for the time being effective for the purposes of Pt III (as amended) (see paras 7 et seq ante, 121 et seq post): s 66(9). As to the Secretary of State and the Welsh Ministers and as to the making of orders under the Local Government Finance Act 1988 generally see para 3 ante. As to the orders so made under s 66(9) see the Standard Community Charge and Non-Domestic Rating (Definition of Domestic Property) Order 1990, SI 1990/162; the Standard Community Charge and Non-Domestic Rating (Definition of Domestic Property) (Amendment) Order 1991, SI 1991/474; the Non-Domestic Rating (Definition of Domestic Property) Order 1993, SI 1993/542; and notes 8, 10–12, 21 infra.

3 Local Government Finance Act 1988 s 66(1)(a). As to whether a person's use of a property to work from home allows that property to continue within the scope of head (1) in the text see *Tully v Jorgensen (Valuation Officer)* [2003] RA 233, Lands Tribunal (rates liability did not arise in this case where a room was used to carry out employment-related office work because the use remained for the purposes of ordinary domestic living accommodation). See also *Fotheringham v Wood (Valuation Officer)* [1995] RA 315, Lands Tribunal (rates liability arose because persons were employed at the premises in question and some clients visited there); and *Bell v Rycroft (Valuation Officer)* [2000] RA 103, Lands Tribunal (rates liability arose because part of the premises had been altered, fitted and staffed for use as a child-care nursery).

Most of the cases cited in this paragraph were decided prior to the coming into force of the Local Government Finance Act 1988 and, therefore, must now be considered in relation to the non-domestic rating provisions in Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 121 et seq post). As to the historical development of rating law and the continuing relevance of the old case law to the current statutory regime see para 2 ante.

4 In *Drury-Heath v Wallace (Valuation Officer)* (1960) 7 RRC 104, CA, a separate plot adjoining the occupier's house was held to be an orchard and not a garden, but the court made it clear that an orchard might be part of a garden. In *Bomford v Osborne* [1942] AC 14 at 40 per Lord Wright, the House of Lords cited dictionary definitions of 'garden' which included the idea of its being an enclosed space, and cited the Oxford English Dictionary especially thus: 'a garden is a substantially homogenous area, substantially devoted to the growth of fruits, flowers and vegetables'.

5 An outhouse is a building which belongs to and is part of a dwelling-house: see *Elsmore v St Briavells Inhabitants* (1828) 8 B & C 461; *R v Haughton* (1833) 5 C & P 555; *R v Hammond* (1844) 3 LTOS 342.

In *Martin v Hewitt (Valuation Officer)* [2003] RA 275, Lands Tribunal, boathouses on Lake Windermere, whose occupiers lived in houses some distance away, were held not to be outhouses for these purposes.

6 'Appurtenance' in the Local Government Finance Act 1988 s 66(1)(b) (see head (2) in the text) was not intended to encompass land or buildings lying outside the curtilage of the property referred to in s 66(1)(a) (see head (1) in the text): *Martin v Hewitt (Valuation Officer)* [2003] RA 275, Lands Tribunal. In *Head (Valuation Officer) v Tower Hamlets London Borough Council* [2005] RA 177, Lands Tribunal, district heating systems, owned and operated by the council to supply heating and hot water to its tenants on council housing estates, were held to be not rateable on the basis of the Local Government Finance Act 1988 s 66(1)(b). However, in *Winchester City Council v Handcock (Valuation Officer)* [2006] RA 265, Lands Tribunal, sewage treatment works were found not to fall within the curtilage of any of the dwellings that they served, and so were rateable.

The word 'appurtenance' must be given its normal construction (see *Clymo (Valuation Officer) v Shell-Mex and BP Ltd* [1963] RA 191, [1963] RVR 471, CA) and comprises something appertaining to the principal subject-matter which would normally be included in it without special mention (see *Evans v Angell* (1858) 26 Beav 202).

7 Local Government Finance Act 1988 s 66(1)(b). See note 6 supra. For these purposes, only the property mentioned in s 66(1)(b), unlike the garage mentioned in s 66(1)(c) (as amended) (see head (3) in the text) or the store mentioned in s 66(1)(d) (see head (4) in the text), is required to belong to or be enjoyed with or have any particular physical relationship to a s 66(1)(a) property (see head (1) in the text): see *Andrews (Valuation Officer) v Lumb* [1993] RA 124 at 130, Lands Tribunal.

8 Local Government Finance Act 1988 s 66(1)(c) (amended by the Standard Community Charge and Non-Domestic Rating (Definition of Domestic Property) Order 1990, SI 1990/162, art 3). See note 7 supra. As to the meaning of the phrase 'wholly or mainly', considered in relation to the rating of charitable property, see: *Fawcett Properties Ltd v Buckingham County Council* [1961] AC 636 at 669, HL, per Lord Morton of Henryton. 'Mainly' probably means more than half: see *Glasgow Corpn v Johnstone* [1965] AC 609, [1965] 1 All ER 730, HL.

9 Local Government Finance Act 1988 s 66(1)(d). See note 7 supra.

Storage in premises quite separate from the house of things to be used for recreation away from the house cannot constitute the storage of articles of domestic use: *Martin v Hewitt (Valuation Officer)* [2003] RA 275, Lands Tribunal (boats in boathouses, stored for use on a lake and not in or about the dwellinghouses, not articles of domestic use).

10 For these purposes, 'business' includes any activity carried on by a body of persons, whether corporate or unincorporate, and any activity carried on by a charity: Local Government Finance Act 1988 s 66(8A) (added by the Standard Community Charge and Non-Domestic Rating (Definition of Domestic Property) Order 1990, SI 1990/162, art 3).

11 Local Government Finance Act 1988 s 66(2) (s 66(2) substituted, and s 66(2A)–(2D) added, by the Standard Community Charge and Non-Domestic Rating (Definition of Domestic Property) Order 1990, SI 1990/162, art 3). Short-stay accommodation is accommodation: (1) which is provided for short periods to individuals whose sole or main residence is elsewhere (Local Government Finance Act 1988 s 66(2)(a) (as so substituted)); and (2) which is not self-contained self-catering accommodation provided commercially (s 66(2)(b) (as so substituted)). 'Commercially' means on a commercial basis, and with a view to the realisation of profits: s 66(8A) (as added: see note 10 supra).

12 Ie the year beginning with the end of the day in relation to which the question is being considered: see ibid s 66(2A)(a) (as added (see note 11 supra); s 66(2A) substituted by the Standard Community Charge and Non-Domestic Rating (Definition of Domestic Property) (Amendment) Order 1991, SI 1991/474, art 3(1)).

13 For the meaning of 'hereditament' see para 33 et seq ante.

14 Local Government Finance Act 1988 s 66(2A)(a) (as added and substituted: see note 12 supra).

15 Ibid s 66(2A)(b) (as added and substituted: see note 12 supra).

16 For these purposes, where the property in question is a building and is not subject as a whole to a relevant leasehold interest, the relevant person is the person having the freehold interest in the whole of the building: ibid s 66(2C)(a) (as added: see note 11 supra). In any other case, the relevant person is any person having a relevant leasehold interest in the building or self-contained part which is not subject (as a whole) to a single relevant leasehold interest inferior to his interest: s 66(2C)(b) (as so added). 'Relevant leasehold interest' means an interest under a lease or underlease which was granted for a term of six months or more and conferred the right to exclusive possession throughout the term: s 66(8A) (as added: see note 10 supra). There is a clear case of drafting error in s 66(2C)(a) (as added), where the word '*building*' ought to be followed by the phrase '*or self contained part*', as in s 66(2C)(b) (as added), but the solution to the problem is a matter for Parliament: see *R (on the application of Curzon Berkeley Ltd) v Bliss (Valuation Officer, London Westminster)* [2001] EWHC Admin 1130, [2001] All ER (D) 314 (Dec).

17 Ie the year beginning with the end of the day in relation to which the question is being considered: Local Government Finance Act 1988 s 66(2B)(a) (as added: see note 11 supra).

18 Ibid s 66(2B)(a) (as added: see note 11 supra).

19 Ibid s 66(2B)(b) (as added: see note 11 supra).

20 Ibid s 66(2D) (as added (see note 11 supra); amended by the Local Government Finance Act 1992 s 117(1), (2), Sch 13 para 70(1), Sch 14).

21 Local Government Finance Act 1988 s 66(2E) (added by the Non-Domestic Rating (Definition of Domestic Property) Order 1993, SI 1993/542, art 2(b)). The text refers to timeshare accommodation within the meaning of the Timeshare Act 1992 (see SALE OF GOODS AND SUPPLY OF SERVICES vol 41 (2005 Reissue) para 868): see the Local Government Finance Act 1988 s 66(2E) (as so added).

22 The definition of domestic property in ibid s 66(1) (as amended) (see the text and notes 1–9 supra) does not apply in the case of a pitch occupied by a caravan, but if in such a case the caravan is the sole or main residence of an individual, the pitch and the caravan, together with any garden, yard, outhouse or other appurtenance belonging to or enjoyed with them, are domestic property: s 66(3) (substituted by the Rating (Caravans and Boats) Act 1996 s 1). However, this does not have effect in the case of a pitch occupied by a caravan which is an appurtenance enjoyed with other property to which the Local Government Finance Act 1988 s 66(1)(a) (see head (1) in the text) applies: s 66(4A) (added by the Rating (Caravans and Boats) Act 1996 s 1). Whether anything is a caravan is to be construed in accordance with the Caravan Sites and Control of Development Act 1960 Pt I (ss 1–30) (as amended) (see TOWN AND COUNTRY PLANNING vol 46(3) (Reissue) para 1033): Local Government Finance Act 1988 s 66(7).

23 The definition of domestic property in ibid s 66(1) (as amended) (see the text and notes 1–9 supra) does not apply in the case of a mooring occupied by a boat, but if in such a case the boat is the sole or main residence of an individual, the mooring and the boat, together with any garden, yard, outhouse or other appurtenance belonging to or enjoyed with them, are domestic property: s 66(4) (substituted by the Rating (Caravans and Boats) Act 1996 s 1). However, this does not have effect in the case of a mooring occupied by a boat which is an appurtenance enjoyed with other property to which the Local Government Finance Act 1988 s 66(1)(a) (see head (1) in the text) applies: s 66(4A) (as added: see note 22 supra).

24 Ibid s 66(5).

(ii) Local Non-domestic Rating Lists

121. Compilation and maintenance of local non-domestic rating lists. A valuation officer[1] for a billing authority[2] must compile and maintain lists of non-domestic hereditaments[3] (known as 'local non-domestic rating lists') in accordance with the non-domestic rating provisions[4].

Local lists had to be compiled on 1 April 1990 initially, and must be compiled on 1 April falling every fifth year thereafter[5]. Before a list is compiled, the valuation officer must take such steps as are reasonably practicable to ensure that the list is accurately compiled[6]. The list comes into force on the day on which it is compiled and remains in force until the next list is compiled five years later[7]. On or before 30 September preceding the day on which the list is to be compiled, the valuation officer must send the billing authority a copy of the proposed list[8]. As soon as is reasonably practicable after receiving the copy, the authority must deposit it at its principal office and take such steps as it thinks most suitable for giving notice of it[9]. Similarly, as soon as is reasonably practicable after compiling a list, the valuation officer must send a copy of it to the authority[10] who must, as soon as is reasonably practicable after receiving the copy, deposit it at its principal office[11].

A list must be maintained for so long as is necessary for the purposes of the non-domestic rating provisions, so that expiry of the five year period for which it is in force does not detract from the duty to maintain it[12].

1 As to valuation officers see para 6 ante.

2 As to billing authorities see para 5 ante.

3 For the meaning of 'hereditament' see para 33 et seq ante.

4 Local Government Finance Act 1988 s 41(1) (amended by the Local Government Finance Act 1992 s 117(1), Sch 13 para 59). The text refers to the non-domestic rating provisions contained in the Local Government Finance Act 1988 Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 122 et seq post): see s 41(1) (as so amended). The general duty prescribed by s 41(1) (as amended) does not imply a specific obligation for alterations to the list to be made within a certain time: *National Car Parks Ltd v*

Baird (Valuation Officer) [2004] EWCA Civ 967, [2005] 1 All ER 53, [2004] RA 245. As to alterations to local non-domestic rating lists by the valuation officer see paras 130–139 post.

5 Local Government Finance Act 1988 s 41(2). In compiling and maintaining the list for 1 April 1990, the valuation officer was entitled to take into account information obtained under the General Rate Act 1967 s 82 or s 86 (repealed) (information from returns requiring information and from surveys of property by the valuation officer): Local Government Finance Act 1988 s 41(8). As to the historical development of rating law see para 2 ante.

6 Ibid s 41(4).

7 Ibid s 41(3).

8 Ibid s 41(5) (amended by the Local Government Act 2003 s 60(1)).

9 Local Government Finance Act 1988 s 41(6).

10 See ibid s 41(6A) (s 41(6A), (6B) added by the Local Government and Housing Act 1989 s 139, Sch 5 paras 1, 19, 79(3)).

11 See the Local Government Finance Act 1988 s 41(6B) (as added: see note 10 supra).

12 Ibid s 41(7). As to alterations see note 4 supra.

122. Amalgamated lists for Welsh billing authorities from 1 April 1996. Every new valuation officer[1] had to compile a list (the 'amalgamated list') on 1 April 1996 for the new billing authority for which he was appointed[2]. The amalgamated list had to contain the information which was included in the local non-domestic rating lists compiled on 1 April 1995 for the old billing authorities[3] (referred to then as the 'current lists') so far as that information was relevant[4]. The amalgamated list was also to include the information which was included in any current list by way of an alteration, so far as that information was relevant[5].

A new valuation officer's amalgamated list was to be treated[6] as the local non-domestic rating list for his new billing authority and was deemed to have come into force on 1 April 1995[7]. Where an amalgamated list contained information which was derived from any alteration made to any list or lists from which it was derived, the amalgamated list was to be treated as having been varied on the date on which the alteration was made[8].

Every valuation officer[9] had to provide, on or before 15 October 1995, the appropriate new valuation officer[10] with the information recorded in his local non-domestic rating list[11] as at 30 September 1995, so far as it was relevant[12]. On 31 March 1996, every valuation officer had to provide the appropriate new valuation officer with the information recorded in his local non-domestic rating list as at that date, so far as it was relevant[13].

As soon as was reasonably practicable after compiling an amalgamated list, a new valuation officer was required to send a copy of it to his new billing authority[14].

1 For these purposes, 'new valuation officer' means a valuation officer for a new billing authority; and 'new billing authority' means a billing authority which is a new principal council: Local Government Finance Act 1988 s 41A(11) (s 41A added by the Local Government (Wales) Act 1994 s 37). 'New principal council' has the same meaning as in the Local Government (Wales) Act 1994 (see para 1 note 4 ante): Local Government Finance Act 1988 s 41A(11) (as so added). As to billing authorities generally see para 5 ante; and as to valuation officers generally see para 6 ante.

2 Ibid s 41A(1) (as added: see note 1 supra). The local rating list provisions contained in s 41(2)–(6B) (s 41(6A), (6B) as added) (see para 121 ante) do not apply in relation to an amalgamated list: s 41A(6) (as so added).

3 For these purposes, 'old billing authority' means a billing authority which is an old authority; and 'old authority' has the same meaning as in the Local Government (Wales) Act 1994 (see para 1 note 4 ante): Local Government Finance Act 1988 s 41A(11) (as added: see note 1 supra).

4 Ibid s 41A(2) (as added: see note 1 supra). Information is relevant in relation to a new valuation officer, or his area, if it relates to a hereditament which is in his area: s 41A(12)(d) (as so added). A new valuation officer's area is the area of the new billing authority for which he is appointed: s 41A(12)(b) (as so added).

5 Ibid s 41A(3) (as added: see note 1 supra).

6 Ie for the purposes of the Local Government Finance Act 1988 (see paras 7 et seq ante, 123 et seq post): see s 41A(4) (as added: see note 1 supra).

7 Ibid s 41A(4) (as added: see note 1 supra).

8 Ibid s 41A(5) (as added: see note 1 supra).

9 For these purposes, 'valuation officer' means a valuation officer for an old billing authority: ibid s 41A(11) (as added: see note 1 supra).

10 The appropriate new valuation officer, in relation to any information which relates to any hereditament, is the new valuation officer for the new billing authority in whose area the hereditament is situated: ibid s 41A(12)(c) (as added: see note 1 supra).

11 References to a valuation officer's local non-domestic rating list are references to the local non-domestic rating list maintained by him under the Local Government Finance Act 1988: s 41A(12)(a) (as added: see note 1 supra).

12 Ibid s 41A(7)(a) (as added: see note 1 supra). A new valuation officer receiving any information under s 41A(7)(a) (as added) must send a copy of it to his new billing authority as soon as is reasonably practicable: s 41A(8) (as so added).

13 Ibid s 41A(7)(b) (as added: see note 1 supra).

14 Ibid s 41A(9) (as added: see note 1 supra). A new billing authority receiving a copy of an amalgamated list under this provision must, as soon as is reasonably practicable, deposit it at its principal office: s 41A(10) (as so added).

123. Contents of local non-domestic rating lists. A local non-domestic rating list[1] must show, for each day in each chargeable financial year[2] for which it is in force, each hereditament[3], on the day concerned, which:

(1) is situated in the billing authority's area[4];

(2) is a relevant non-domestic hereditament[5];

(3) is not (nor any part of it) either domestic property[6] or exempt from local non-domestic rating[7]; and

(4) is not a hereditament which must be shown for the day in a central non-domestic rating list[8].

For each day on which a hereditament is shown in the local list[9], it must also show whether it consists entirely of property which is not domestic[10], or is a composite hereditament[11], and whether any part of the hereditament is exempt from local non-domestic rating[12]. The list must show the rateable value of the hereditament[13]. The list must also contain such information about hereditaments shown in it as may be prescribed by the Secretary of State (or the Welsh Ministers, as the case may be)[14] by regulations[15]; and this may include information about the total rateable values shown in the list[16]. Accordingly, in respect of each hereditament shown in a list, the list must contain: (a) a description of the hereditament[17]; (b) its address[18]; and (c) any reference number ascribed to it by the valuation officer[19]. A list must also show on any day in which it is in force the total of rateable values shown in the list[20]. In respect of any alteration directed to be made by a tribunal[21], the name of the tribunal must also be shown in the list[22].

1 Ie a list compiled under the Local Government Finance Act 1988 s 41 (as amended) (see para 121 ante) or s 41A (as added) (see para 122 ante).

2 For the purposes of the Local Government Finance Act 1988, chargeable financial years are financial years beginning in 1990 and subsequent years: s 145(1). For the meaning of 'financial year' for these purposes see para 1 note 1 ante.

3 For the meaning of 'hereditament' see para 33 et seq ante.

4 Local Government Finance Act 1988 s 42(1)(a). As to billing authorities see para 5 ante.

5 Ibid s 42(1)(b). For the meaning of 'relevant non-domestic hereditament' see para 7 ante.

6 For the meaning of 'domestic property' for the purposes of non-domestic rating see para 120 ante.

7 Local Government Finance Act 1988 s 42(1)(c). As to exemptions from local non-domestic rating see para 37 et seq ante.

8 Ibid s 42(1)(d). As to central non-domestic rating lists see para 125 et seq post.

9 A right or other property is a hereditament on a particular day if (and only if) it is a hereditament immediately before the day ends: ibid s 67(3).

10 Ibid s 42(2)(a). For the purposes of deciding the extent (if any) to which a hereditament consists of domestic property on a particular day, or is exempt from local non-domestic rating on a particular day, or

is a Crown hereditament on a particular day, the state of affairs existing immediately before the day ends is to be treated as having existed throughout the day: s 67(5) (amended by the Local Government and Housing Act 1989 s 139, Sch 5 paras 35(2), 79(3)).

11 Local Government Finance Act 1988 s 42(2)(b). For the meaning of 'composite hereditament' see para 33 note 6 ante. A hereditament is relevant, non-domestic, composite, unoccupied or wholly or partly occupied on a particular day if (and only if) it is relevant, non-domestic, composite, unoccupied or wholly or partly occupied (as the case may be) immediately before the day ends: s 67(4).

12 Ibid s 42(3).

13 Ibid s 42(4) (amended by the Local Government and Housing Act 1989 Sch 5 paras 20, 79(3)).

14 As to the Secretary of State and the Welsh Ministers see para 3 ante.

15 Local Government Finance Act 1988 s 42(5). 'Prescribed' in the context of regulations, means prescribed by the regulations: s 146(6). As to the making of regulations under the Local Government Finance Act 1988 generally see para 3 ante. As to the regulations made under s 42(5) see the Non-Domestic Rating (Miscellaneous Provisions) Regulations 1989, SI 1989/1060 (as amended) (as to which see the text and notes 17–22 infra); the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659 (as amended) (as to which see para 128 et seq post); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758 (as amended) (as to which see para 129 et seq post).

16 Local Government Finance Act 1988 s 42(5).

17 Non-Domestic Rating (Miscellaneous Provisions) Regulations 1989, SI 1989/1060, reg 2(a).

18 Ibid reg 2(b).

19 Ibid reg 2(c).

20 Ibid reg 4. The text refers to the total of rateable values shown in the list in accordance with the Local Government Finance Act 1988 s 42(4) (as amended) (see the text and note 13 supra): see the Non-Domestic Rating (Miscellaneous Provisions) Regulations 1989, SI 1989/1060, reg 4.

21 As to appeals to tribunals in respect of the contents of valuation lists see para 147 et seq post.

22 Non-Domestic Rating (Miscellaneous Provisions) Regulations 1989, SI 1989/1060, reg 3.

(iii) Rural Settlement Lists

124. Duty of English billing authorities to compile and maintain rural settlement list. Each billing authority in England[1] must compile and maintain[2] a list (the 'rural settlement list')[3]. This list has effect for each chargeable financial year[4] and identifies for each such year any settlements[5] which: (1) are wholly or partly within the authority's area[6]; (2) appear to the authority to have had a population of not more than 3,000 on the last 31 December before the beginning of the chargeable financial year in question[7]; and (3) in that financial year are wholly or partly within an area designated by the Secretary of State[8] by order[9] as a rural area for these purposes[10]. A rural settlement list must identify the boundaries of each settlement[11], but if a settlement is not wholly within the area of a billing authority the list need not identify the boundaries outside the authority's area[12]. The requirement to compile and maintain such a list does not apply to a billing authority in respect of any chargeable financial year for which there are no such settlements and, accordingly, if the authority has compiled a rural settlement list, it must cease to maintain that list[13].

The billing authority must, throughout the period of three months preceding the beginning of the first chargeable financial year for which a rural settlement list is to have effect, make available for inspection a draft of the list in the form in which the authority proposes that it should have effect for that year[14]. In each chargeable financial year for which a rural settlement list has effect, the billing authority must[15] review the list and consider whether or not, for the next chargeable financial year, any alterations are required to the list[16]. If, following the review, the authority considers that any such alterations are required for that year, it must, throughout the three months preceding the beginning of that year, make available for inspection a draft of the list in the form in which the authority proposes that it should have effect for that year[17]. A billing authority which has compiled a rural settlement list must make it available for inspection in the form in which the list has effect for each chargeable financial year to which it relates[18].

1 As to billing authorities see para 5 ante. For the meaning of 'England' see para 1 note 2 ante.
2 Ie compile and maintain in accordance with the Local Government Finance Act 1988 s 42B (as added) (see the text and notes 14–18 infra): see s 42A(1) (as added: see note 3 infra).
3 Ibid s 42A(1) (ss 42A, 42B both added by the Local Government Finance Act 1997 s 1, Sch 1 para 1; the Local Government Finance Act 1988 s 42A(1) amended by the Local Government Act 2003 s 63(1)).
4 For the purposes of the Local Government Finance Act 1988, chargeable financial years are financial years beginning in 1990 and subsequent years: s 145(1). For the meaning of 'financial year' for these purposes see para 1 note 1 ante.
5 Ibid s 42A(2) (as added: see note 3 supra).
6 Ibid s 42A(3)(a) (as added: see note 3 supra).
7 Ibid s 42A(3)(b) (as added: see note 3 supra).
8 As to the Secretary of State see para 3 ante.
9 An order under the Local Government Finance Act 1988 s 42A(3)(c) (as added) may provide for designating as a rural area any area for the time being identified by any person, in any manner, specified in the order: s 42A(5) (as added: see note 3 supra). As to the making of orders under the Local Government Finance Act 1988 generally see para 3 ante. As to the orders made under s 42A(3)(c), (5) (as added) see the Non-Domestic Rating (Rural Settlements) (England) Order 1997, SI 1997/2792 (amended by SI 2000/521; SI 2001/1346; SI 2004/3153); the Non-Domestic Rating (Rural Settlements) (England) Order 1998, SI 1998/393; the Non-Domestic Rating (Rural Settlements) (England) (No 2) Order 1998, SI 1998/2836; the Non-Domestic Rating (Rural Settlements) (England) Order 1999, SI 1999/3158; and the Non-Domestic Rating (Designation of Rural Areas) (England) Order 2001, SI 2001/3916.
10 Local Government Finance Act 1988 s 42A(3)(c) (as added: see note 3 supra). See note 9 supra.
11 Ie whether by defining the boundaries or referring to boundaries defined in a map or other document: see ibid s 42A(4) (as added: see note 3 supra).
12 Ibid s 42A(4) (as added: see note 3 supra).
13 Ibid s 42A(6) (as added: see note 3 supra).
14 Ibid s 42B(1) (as added: see note 3 supra). Where a billing authority is required to make any list or draft available for inspection, it must make the list or draft available at any reasonable hour (and free of charge) at its principal office: s 42B(5) (as so added).
15 Ie if it appears to the authority that ibid s 42A(1) (as added) (see the text and notes 1–3 supra) will apply to the authority in respect of the next chargeable financial year: see s 42B(2) (as added: see note 3 supra).
16 Ibid s 42B(2) (as added: see note 3 supra). The text refers to any alterations that are required in order to give effect to s 42A(2) (as added) (see the text and notes 4–5 supra): see s 42B(2) (as so added).
17 Ibid s 42B(3) (as added: see note 3 supra).
18 Ibid s 42B(4) (as added: see note 3 supra).

(iv) Central Non-domestic Rating Lists

125. Compilation and maintenance of central non-domestic rating lists. The central valuation officer[1] must compile, and then maintain, lists (known as 'central non-domestic rating lists') in accordance with the non-domestic rating provisions[2]. A list had to be compiled on 1 April 1990 initially, and must be compiled on 1 April falling every fifth year thereafter[3]. A list comes into force on the day on which it is compiled and remains in force until the next one is compiled five years later[4]. Before a list is compiled, the central valuation officer must take such steps as are reasonably practicable to ensure that it is accurately compiled on the 1 April concerned[5]. No later than 30 September preceding the day on which a list is to be compiled, the central valuation officer must send to the Secretary of State (or the Welsh Ministers, as the case may be)[6] a copy of the list he (or they) propose (on the information then before him or them) to compile[7]. As soon as is reasonably practicable after receiving the copy the Secretary of State (or the Welsh Ministers, as the case may be) must deposit it at his (or their) principal office[8]. Similarly, as soon as is reasonably practicable after compiling a list, the central valuation officer must send a copy of it to the Secretary of State (or the Welsh Ministers, as the case may be)[9] who must, as soon as is reasonably practicable after receiving the copy, deposit it at his (or their) principal office[10]. A list must be maintained

for so long as is necessary for the purposes of the non-domestic rating provisions[11], so that the expiry of the five year period for which it is in force does not detract from the duty to maintain it[12].

1 As to valuation officers see para 6 ante.
2 Local Government Finance Act 1988 s 52(1). The text refers to the non-domestic rating provisions contained in Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 126 et seq post): see s 52(1).
3 Ibid s 52(2).
4 Ibid s 52(3).
5 Ibid s 52(4).
6 As to the Secretary of State and the Welsh Ministers see para 3 ante.
7 Local Government Finance Act 1988 s 52(5) (amended by the Local Government Act 2003 s 60(2)).
8 Local Government Finance Act 1988 s 52(6).
9 Ibid s 52(6A) (s 52(6A), (6B) added by the Local Government and Housing Act 1989 s 139, Sch 5 paras 28, 79(3)).
10 Local Government Finance Act 1988 s 52(6B) (as added: see note 9 supra).
11 Ie for the purposes of ibid Pt III (as amended) (see paras 7 et seq ante, 126 et seq post): see s 52(7).
12 Ibid s 52(7).

126. Power to prescribe the contents of central non-domestic rating lists. With a view to securing the central rating en bloc of certain hereditaments[1], the Secretary of State (or the Welsh Ministers, as the case may be)[2] may by regulations[3] designate a person and prescribe[4] in relation to him one or more descriptions of relevant non-domestic hereditament[5]. Where the regulations so require, a central non-domestic rating list must show, for each day in each chargeable financial year[6] for which it is in force, the name of the designated person and, against it, each hereditament (wherever situated) which on the day concerned is occupied or (if unoccupied) owned by him, and falls within any description prescribed in relation to him[7]. For each such day, the list must also show against the name of the designated person the rateable value (as a whole) of the hereditaments so shown[8]. Where regulations are for the time being in force so prescribing a description of non-domestic hereditament in relation to the previously designated person[9], amending regulations altering the designated person in relation to whom that description of hereditament is prescribed may have effect from a date earlier than that on which the amending regulations are made[10]. A central non-domestic rating list must also contain such information about hereditaments shown in it as may be prescribed by the Secretary of State (or the Welsh Ministers, as the case may be) by regulations[11].

1 For the meaning of 'hereditament' see para 33 et seq ante.
2 As to the Secretary of State and the Welsh Ministers see para 3 ante.
3 As to the making of regulations under the Local Government Finance Act 1988 generally see para 3 ante; and see notes 5, 11 infra.
4 'Prescribed' in the context of regulations, means prescribed by the regulations: s 146(6).
5 Local Government Finance Act 1988 s 53(1) (amended by the Local Government and Housing Act 1989 s 139, Sch 5 paras 29(2), (3), 79(3)). As to the regulations made under the Local Government Finance Act 1988 s 53 (as amended) in relation to the 2005 central non-domestic rating lists see the Central Rating List (Wales) Regulations, SI 2005/422 (as amended); the Central Rating List (England) Regulations 2005, SI 2005/551 (as amended); and para 127 post.
6 For the purposes of the Local Government Finance Act 1988, chargeable financial years are financial years beginning in 1990 and subsequent years: s 145(1). For the meaning of 'financial year' for these purposes see para 1 note 1 ante.
7 Ibid s 53(2) (amended by the Local Government and Housing Act 1989 Sch 5 paras 29(2), (3), 79(3)). As to the compilation and maintenance of central non-domestic rating lists see para 125 ante.
8 Local Government Finance Act 1988 s 53(3).
9 Ie a person designated in the regulations: see ibid s 53(4) (as substituted: see note 10 infra).
10 Ibid s 53(4) (s 53(4) substituted, and s 53(4A) added, by the Local Government and Housing Act 1989 Sch 5 paras 29(4), 79(3)). Where, by virtue of the Local Government Finance Act 1988 s 53(4) (as substituted), the designated person in relation to any description of non-domestic hereditament is

changed from a date earlier than the making of the regulations: (1) any necessary alteration is to be made with effect from that date to a central non-domestic rating list on which any hereditament concerned is shown (s 53(4A)(a) (as so added)); and (2) an order making the provision referred to in s 56(1), Sch 6 para 3(2) (as amended; prospectively repealed) (see para 98 ante) and specifying a description of hereditament by reference to the previously designated person is to be treated, with effect from that date, as referring to the person designated by the amending regulations (s 53(4A)(b) (as so added)).

As from a day to be appointed under the Local Government Act 2003 s 128(6), the Local Government Finance Act 1988 s 53(4A)(b) (as added) (see head (2) supra) is repealed by the Local Government Act 2003 ss 69, 127(2), Sch 8 Pt 1. However, at the date at which this volume states the law, no such day had been appointed.

11 Local Government Finance Act 1988 s 53(5). In addition to the regulations cited in note 5 supra, the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659 (as amended); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758 (as amended) have been made under the Local Government Finance Act 1988 s 53(5) (see para 128 et seq post).

127. Contents of central non-domestic rating lists. With a view to securing the central rating en bloc of certain hereditaments[1], various corporate bodies have been designated, and in relation to them a group of relevant non-domestic hereditaments prescribed, by regulations[2]. The hereditaments[3] so prescribed[4] are:

(1) railway hereditaments[5] (including, in relation to England only, light railway hereditaments)[6];
(2) communication hereditaments[7];
(3) national, regional and local gas transportation hereditaments[8];
(4) gas meter hereditaments[9];
(5) electricity transmission and distribution hereditaments[10];
(6) electricity meter hereditaments[11];
(7) water supply hereditaments[12];
(8) canal hereditaments[13]; and
(9) long-distance pipeline hereditaments[14].

The regulations also designate a person in relation to each relevant hereditament[15].

The central non-domestic rating list must show, for each day in each year for which it is in force, the name of each designated person[16] and, against each name, each hereditament situated in England or Wales (as the case may be) which on the day concerned is occupied[17] (or, if unoccupied, owned[18]) by that person, and which falls within the description prescribed in relation to that person[19]. The list must also show, against the name of each designated person, that person's business details[20], the rateable value (as a whole) of the hereditaments so shown[21] and, if after 1 April 2005, the first day for which the rateable value shown in the list against the name of the designated person has effect[22]. Where the list has been altered in pursuance of a direction by a tribunal[23], the name of the tribunal must also been shown in the list[24].

A hereditament is to be treated as shown in a central non-domestic rating list for a day if on the day it falls within a class of hereditament shown for the day in the list; and for this purpose a hereditament falls within a class on a particular day if (and only if) it falls within the class immediately before the day ends[25].

1 For the meaning of 'hereditament' see para 33 et seq ante.

2 The power to prescribe, in relation to England and Wales, the contents of central non-domestic rating lists is conferred by the Local Government Finance Act 1988 s 53 (as amended): see para 126 ante. 'Prescribed' in the context of regulations, means prescribed by the regulations: s 146(6). As to the making of regulations under the Local Government Finance Act 1988 generally see para 3 ante. For the meanings of 'England' and 'Wales' see para 1 note 2 ante.

3 Ie relevant non-domestic hereditaments: see the Central Rating List (Wales) Regulations 2005, SI 2005/422, reg 2(2)(b); and the Central Rating List (England) Regulations 2005, SI 2005/551, reg 1(3)(b).

4 Ie for the purposes of the Local Government Finance Act 1988 s 53(1) (as amended) (see para 126 ante): Central Rating List (Wales) Regulations 2005, SI 2005/422, reg 4(1); Central Rating List (England) Regulations 2005, SI 2005/551, reg 3(1).

5 Central Rating List (Wales) Regulations 2005, SI 2005/422, reg 4(1)(b), Schedule Pt 1; Central Rating List (England) Regulations 2005, SI 2005/551, reg 3(1)(b), Schedule Pt 1. See further the Central Rating List (Wales) Regulations 2005, SI 2005/422, reg 7 (amended by SI 2005/3050); and the Central Rating List (England) Regulations 2005, SI 2005/551, reg 6 (amended by SI 2005/3050).

6 Central Rating List (England) Regulations 2005, SI 2005/551, reg 3(1)(b), Schedule Pt 2. See further reg 7.

7 Central Rating List (Wales) Regulations 2005, SI 2005/422, reg 4(1)(b), Schedule Pt 2; Central Rating List (England) Regulations 2005, SI 2005/551, reg 3(1)(b), Schedule Pt 3. See further the Central Rating List (Wales) Regulations 2005, SI 2005/422, reg 8; and the Central Rating List (England) Regulations 2005, SI 2005/551, reg 8 (amended by SI 2006/495).

8 Central Rating List (Wales) Regulations 2005, SI 2005/422, reg 4(1)(b), Schedule Pts 3–4; Central Rating List (England) Regulations 2005, SI 2005/551, reg 3(1)(b), Schedule Pts 4–5. See further the Central Rating List (Wales) Regulations 2005, SI 2005/422, regs 9–10; and the Central Rating List (England) Regulations 2005, SI 2005/551, regs 9–10.

9 Central Rating List (Wales) Regulations 2005, SI 2005/422, reg 4(1)(b), Schedule Pt 5; Central Rating List (England) Regulations 2005, SI 2005/551, reg 3(1)(b), Schedule Pt 6. See further the Central Rating List (Wales) Regulations 2005, SI 2005/422, reg 11; and the Central Rating List (England) Regulations 2005, SI 2005/551, reg 11.

10 Central Rating List (Wales) Regulations 2005, SI 2005/422, reg 4(1)(b), Schedule Pts 6–7; Central Rating List (England) Regulations 2005, SI 2005/551, reg 3(1)(b), Schedule Pts 7–8. See further the Central Rating List (Wales) Regulations 2005, SI 2005/422, regs 12–13; and the Central Rating List (England) Regulations 2005, SI 2005/551, regs 12–13.

11 Central Rating List (Wales) Regulations 2005, SI 2005/422, reg 4(1)(b), Schedule Pt 8; Central Rating List (England) Regulations 2005, SI 2005/551, reg 3(1)(b), Schedule Pt 9. See further the Central Rating List (Wales) Regulations 2005, SI 2005/422, reg 14; and the Central Rating List (England) Regulations 2005, SI 2005/551, reg 14.

12 Central Rating List (Wales) Regulations 2005, SI 2005/422, reg 4(1)(b), Schedule Pt 9; Central Rating List (England) Regulations 2005, SI 2005/551, reg 3(1)(b), Schedule Pt 10. See further the Central Rating List (Wales) Regulations 2005, SI 2005/422, reg 15; and the Central Rating List (England) Regulations 2005, SI 2005/551, reg 15.

13 Central Rating List (Wales) Regulations 2005, SI 2005/422, reg 4(1)(b), Schedule Pt 10; Central Rating List (England) Regulations 2005, SI 2005/551, reg 3(1)(b), Schedule Pt 11. See further the Central Rating List (Wales) Regulations 2005, SI 2005/422, reg 16; and the Central Rating List (England) Regulations 2005, SI 2005/551, reg 16.

14 Central Rating List (Wales) Regulations 2005, SI 2005/422, reg 4(1)(b), Schedule Pt 11; Central Rating List (England) Regulations 2005, SI 2005/551, reg 3(1)(b), Schedule Pt 12.

15 See the Central Rating List (Wales) Regulations 2005, SI 2005/422, reg 4(1)(a), Schedule Pts 1–11; the Central Rating List (England) Regulations 2005, SI 2005/551, reg 3(1)(a), Schedule Pts 1–12; and the text and notes 3–14 supra.

16 Ie each person designated, in relation to Wales, by the Central Rating List (Wales) Regulations 2005, SI 2005/422, reg 4 and, in relation to England, by the Central Rating List (England) Regulations 2005, SI 2005/551, reg 3: see the Central Rating List (Wales) Regulations 2005, SI 2005/422, regs 2(1), 5; and the Central Rating List (England) Regulations 2005, SI 2005/551, regs 1(2), 4. For these purposes, any reference to a designated person by name is, unless the context otherwise requires, a reference to the company or body registered by or bearing that name on 1 October 2004: see the Central Rating List (Wales) Regulations 2005, SI 2005/422, reg 2(2)(c); and the Central Rating List (England) Regulations 2005, SI 2005/551, reg 1(3)(c). As to the alteration of the designated person in relation to a hereditament see the Local Government Finance Act 1988 s 53(4) (as substituted), s 53(4A) (as added; prospectively amended); and para 126 ante.

17 As to occupation see para 12 et seq ante.

18 For the meaning of 'owner' see para 13 ante.

19 Central Rating List (Wales) Regulations 2005, SI 2005/422, regs 2(2)(a), 5; Central Rating List (England) Regulations 2005, SI 2005/551, regs 1(3)(a), 4. As to the compilation and maintenance of central non-domestic rating lists see para 125 ante.

20 Where the person is a company registered in England and Wales, the list must show its registered office and, in any other case, the person's principal place of business within the United Kingdom: Central Rating List (Wales) Regulations 2005, SI 2005/422, reg 6(1)(a); Central Rating List (England) Regulations 2005, SI 2005/551, reg 5(1)(a). Where the person is a registered company, the list must show its registered number: Central Rating List (Wales) Regulations 2005, SI 2005/422, reg 6(1)(b); Central Rating List (England) Regulations 2005, SI 2005/551, reg 5(1)(b). As to registration under the

Companies Act 1985 see COMPANIES vol 7(1) (2004 Reissue) para 221 et seq; and as to the registered office of a company see COMPANIES vol 7(1) (2004 Reissue) para 346.

In any Act, unless the contrary intention appears, 'United Kingdom' means Great Britain and Northern Ireland: Interpretation Act 1978 s 5, Sch 1. 'Great Britain' means England, Scotland and Wales: Union with Scotland Act 1706 preamble art I; Interpretation Act 1978 s 22(1), Sch 2 para 5(a). Neither the Channel Islands nor the Isle of Man is within the United Kingdom.

21 See the Local Government Finance Act 1988 s 53(3); and para 126 ante.

22 Central Rating List (Wales) Regulations 2005, SI 2005/422, reg 6(1)(c); Central Rating List (England) Regulations 2005, SI 2005/551, reg 5(1)(c).

23 As to appeals to tribunals in respect of the contents of valuation lists see para 147 et seq post.

24 Central Rating List (Wales) Regulations 2005, SI 2005/422, reg 6(2); Central Rating List (England) Regulations 2005, SI 2005/551, reg 5(2).

25 Local Government Finance Act 1988 s 67(9). For these purposes, 'class' means a class expressed by reference to whether hereditaments are occupied or owned by a person designated under s 53(1) (as amended) (see para 126 ante) and fall within any description prescribed in relation to him under s 53(1) (as amended): s 67(9A) (added by the Local Government Housing Act 1989 s 139, Sch 5 paras 35(3), 79(3)).

(v) Alteration of Rating Lists

A. IN GENERAL

128. Power to make regulations for the alteration of rating lists. The Secretary of State (or the Welsh Ministers, as the case may be)[1] may make regulations[2] providing that, where a copy of a proposed local rating list has been sent to a billing authority[3], or where a copy of a proposed central rating list has been sent to him (or to them, as the case may be)[4], and the valuation officer[5] alters the list before it comes into force[6], the officer must inform the billing authority or the Secretary of State (or the Welsh Ministers) as the case may be[7], who must then alter the deposited copy accordingly[8].

The Secretary of State (or the Welsh Ministers, as the case may be) also has power to make regulations[9] governing the alteration by valuation officers of lists which have been compiled, whether or not they are still in force[10]; and such regulations may include provision:

(1) that where a valuation officer intends to alter a list to ensure that it is accurately maintained, he must not alter it unless prescribed[11] conditions (as to notice or otherwise) are fulfilled[12];
(2) as to who (other than a valuation officer) may make a proposal to alter a list with a view to its being accurately maintained[13];
(3) as to the manner and circumstances in which a proposal may be made and the information to be included in it[14];
(4) as to the period within which a proposal must be made[15];
(5) as to the procedure for and subsequent making of a proposal[16];
(6) as to the circumstances within which and the conditions upon which a proposal may be withdrawn[17];
(7) requiring the valuation officer to inform other prescribed persons of the proposal in the prescribed manner[18];
(8) that, where there is disagreement between a valuation officer and another person making a proposal for the alteration of a list, about the validity of the proposal or about the accuracy of the list, an appeal may be made to a valuation tribunal[19];
(9) as to the period for which or day from which an alteration of a list is to have effect[20];

(10) requiring the list to be altered so as to indicate the effect (retrospective or otherwise) of the alteration[21];

(11) requiring the valuation officer to inform prescribed persons of an alteration within a prescribed period[22];

(12) requiring the valuation officer to keep for a prescribed period a record of the state of the list before the alteration was made[23];

(13) as to financial adjustments to be made as a result of alterations, including provision requiring payments or repayments to be made, with or without interest[24], and provision as to the recovery (by deduction or otherwise) of sums due[25].

The regulations also may include provision that where a valuation officer for a billing authority has informed the authority of an alteration of a list a copy of which has been deposited by the authority[26], the authority must alter the copy accordingly[27]. Where the central valuation officer has informed the Secretary of State (or the Welsh Ministers, as the case may be) of an alteration of a list a copy of which has been deposited[28], regulations may include provision that the Secretary of State (or the Welsh Ministers, as the case may be) must alter the copy accordingly[29].

1 As to the Secretary of State and the Welsh Ministers see para 3 ante.

2 As to the making of regulations under the Local Government Finance Act 1988 generally see para 3 ante. As to the regulations made under the Local Government Finance Act 1988 s 55(1) (as amended) see the text and notes 3–8 infra.

3 Ie under ibid s 41(5) (as amended) (see para 121 ante): see s 55(1). As to billing authorities see para 5 ante; and as to local rating lists see para 121 et seq ante.

4 Ie under ibid s 52(5) (as amended) (see para 125 ante): see s 55(1). As to central rating lists see para 125 et seq ante.

5 As to valuation officers see para 6 ante.

6 Local Government Finance Act 1988 s 55(1); Non-Domestic Rating (Miscellaneous Provisions) (No 2) Regulations 1989, SI 1989/2303, reg 6.

7 Local Government Finance Act 1988 s 55(1)(a) (amended by the Local Government Finance Act 1992 s 117(1), Sch 13 para 67(1)); Non-Domestic Rating (Miscellaneous Provisions) (No 2) Regulations 1989, SI 1989/2303, reg 6(a) (amended by SI 1993/616).

8 Local Government Finance Act 1988 s 55(1)(b); Non-Domestic Rating (Miscellaneous Provisions) (No 2) Regulations 1989, SI 1989/2303, reg 6(b).

9 As to the regulations made under the Local Government Finance Act 1988 s 55(2)–(6) (as amended) see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659 (as amended); the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758 (as amended); and para 129 et seq post.

10 Local Government Finance Act 1988 s 55(2). For the purposes of s 55(2), the provisions of s 55(3)–(7) (as amended) (see heads (1) to (13) in the text) apply: see s 55(2).

11 'Prescribed' in the context of regulations, means prescribed by the regulations: ibid s 146(6).

12 Ibid s 55(3).

13 Ibid s 55(4)(a).

14 Ibid s 55(4)(b) (amended by the Local Government and Housing Act 1989 s 139, Sch 5 paras 30(2), 79(3)).

15 Local Government Finance Act 1988 s 55(4)(c).

16 Ibid s 55(4)(d) (amended by the Local Government and Housing Act 1989 Sch 5 paras 30(2), 79(3)).

17 Local Government Finance Act 1988 s 55(4)(dd) (added by the Local Government and Housing Act 1989 Sch 5 paras 30(2), 79(3)).

18 Local Government Finance Act 1988 s 55(4)(e).

19 Ibid s 55(5) (amended by the Local Government and Housing Act 1989 Sch 5 paras 30(3), 79(3); and the Local Government Finance Act 1992 Sch 13 para 67(2)). The text refers to a valuation tribunal established under the Local Government Finance Act 1988 s 136, Sch 11 (Sch 11 as amended) (see para 147 et seq post): see s 55(5) (as so amended).

20 Ibid s 55(6)(a). This may include provision that it is to have retrospective effect: see s 55(6)(a); and see *R (on the application of Corus UK Ltd) v Valuation Office Agency* [2001] EWHC Admin 1108, [2002] RA 1 (retrospective alteration not conspicuously unfair in the circumstances).

21 Local Government Finance Act 1988 s 55(6)(b). As to proposals relating to the alteration of a 1995 local rating list in England following an alteration made to a 2000 list on or before 31 March 2006 see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 17A (added by SI 2006/2312).

22 Local Government Finance Act 1988 s 55(6)(c). As to the regulations so made see note 9 supra; and also the Non-Domestic Rating (Caravan Sites) Regulations 1990, SI 1990/673, reg 4 (as amended) (cited in para 35 ante).

23 Local Government Finance Act 1988 s 55(6)(d).

24 Ibid s 55(7)(a) (substituted by the Local Government Finance Act 1992 s 104, Sch 10 para 1). As to the regulations so made see the Non-Domestic Rating (Payment of Interest) Regulations 1990, SI 1990/1904 (amended by SI 1991/2111; SI 1992/1515; SI 1993/616; SI 1993/1495; SI 2001/3649; in relation to England only by SI 2005/659; in relation to Wales only by SI 2005/758).

25 Local Government Finance Act 1988 s 55(7)(c).

26 Ie under ibid s 41(6B) (as added) (see para 121 ante) or s 41A(10) (as added) (see para 122 ante): see s 55(7A)(a) (as added and amended: see note 27 infra).

27 Ibid s 55(7A)(a) (s 55(7A) added by the Local Government and Housing Act 1989 Sch 5 paras 30(5), 79(3); the Local Government Finance Act 1988 s 55(7A)(a) amended by the Local Government Finance Act 1992 Sch 13 para 67(3); and the Local Government (Wales) Act 1994 s 66(6), Sch 16 para 84). As to the regulations made under the Local Government Finance Act 1988 s 55(7A) (as added and amended) see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659 (as amended); the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758 (as amended); and para 129 et seq post.

28 Ie under the Local Government Finance Act 1988 s 52(6B) (as added) (see para 125 ante): see s 55(7A)(b) (as added: see note 27 supra).

29 Ibid s 55(7A)(b) (as added: see note 27 supra). See note 27 supra.

129. Notification of alteration. Within four weeks of altering a local non-domestic rating list, the valuation officer[1] must serve a written notice[2] on the relevant authority[3] stating the effect of the alteration[4]. The relevant authority must as soon as reasonably practicable alter the copy of the list deposited[5] by it at its principal office[6]. No later than the day on which the relevant authority is so notified, the valuation officer must serve written notice on the ratepayer[7] and on any current proposer[8] stating: (1) the effect of the alteration[9]; and (2) the effect of the application of the provisions which deal with the alteration of local rating lists[10], and with appeals[11], in relation to the alteration[12]. However, such notices do not have to be sent where the alteration is solely for the purpose of correcting a clerical error, or for reflecting either a change in the address of the hereditament concerned, or a change in the area of the relevant authority[13]. The valuation officer must take such steps as are reasonably practicable to secure that any notice so served by him on the ratepayer and any current proposer is served not later than the corresponding notice served by him on the relevant authority[14].

1 For these purposes, 'valuation officer', in relation to a list, means the valuation officer for the authority for which the list is compiled and maintained, where 'list' means a local non-domestic rating list compiled on or after 1 April 2005: Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 3; Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 3. As to valuation officers generally see para 6 ante; and as to local rating lists see para 121 et seq ante.

2 For these purposes, any reference to a notice includes a reference to a proposal and any other document required to be served; and any reference to such requirement or authorisation is to a requirement or authorisation under the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659 (as amended) or the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758 (as amended), as the case may be: Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 40(5); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 40(5). Any notice to be served may be served:

(1) by delivering it either to the person on whom it is to be served or to any other person authorised by them to act as their agent for the purpose (Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 40(1)(a); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 40(1)(a));

(2) by sending it to that person or that agent by electronic communication, with any notice sent by such means being regarded as sent when it is received in a legible form (Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 40(1)(b), (5); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 40(1)(b), (5));

(3) by leaving it at or forwarding it by post to the usual or last-known place of business of that person, or, in the case of a company, its registered office or the usual or last-known place of business or registered office of any other person authorised by them to act as their agent for the purpose as mentioned in head (1) supra (Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 40(1)(c); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 40(1)(c));

(4) by delivering it to some person on the premises to which it relates or, if there is no person on the premises to whom it can so be delivered, by fixing it to some conspicuous part of the premises (Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 40(1)(d); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 40(1)(d));

(5) without prejudice to heads (1) to (4) supra, where a hereditament to which the notice relates is a place of business of the person on whom it is to be served, by leaving it at, or forwarding it by post addressed to that person at, that place of business (Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 40(1)(e); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 40(1)(e)).

For the meaning of 'hereditament' see para 33 et seq ante. 'Electronic communication' has the meaning given in the Electronic Communications Act 2000 s 15(1) (as amended) (see TELECOMMUNICATIONS AND BROADCASTING vol 45(1) (2005 Reissue) para 616): Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 40(5); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 40(5). As to the registered office of a company see COMPANIES vol 7(1) (2004 Reissue) para 346. Service by post is deemed to be effected by properly addressing, prepaying and posting a letter containing the notice, and unless the contrary is proved (see *Moody v Godstone RDC* [1966] 2 All ER 696, [1966] 1 WLR 1085) is deemed to have been effected at the time at which the letter would normally be delivered: see the Interpretation Act 1978 s 7. See also *R v St Pancras Assessment Committee, ex p Shoolbred's Depositories Ltd* (1937) 26 R & IT 116; *Carpenter v Twickenham Corpn* (1948) 46 LGR 380, 41 R & IT 258. 'Post' includes registered post: *TO Supplies (London) Ltd v Jerry Creighton Ltd* [1952] 1 KB 42, [1951] 2 All ER 992.

Heads (1) to (5) supra are without prejudice to the Local Government Act 1972 s 233 (as amended) (service of notices to local authorities) (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 443): Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 40(1); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 40(1). Furthermore, where any notice which is to be served on a person falls to be served by or on behalf of the Common Council or by an officer of the Common Council, it may be given or served in any manner in which it might be given or served under the Local Government Act 1972 s 233 (as amended) if the Common Council were a local authority within the meaning of that provision: Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 40(2); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 40(2). As to the Common Council of the City of London see LONDON GOVERNMENT vol 29(2) (Reissue) para 51 et seq. As to service on owners or occupiers of premises see note 7 infra. As to service on valuations officers see para 132 note 4 post.

3 'Relevant authority', in relation to a hereditament, means the authority in whose area the hereditament is situated, where 'authority' means a billing authority: Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 2(1); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 2(1). As to billing authorities see para 5 ante.

4 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 17(1); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 17(1). For these purposes, 'alteration' means alteration of a list in relation to a particular hereditament; and 'alter' is to be construed accordingly: Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 3; Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 3.

5 Ie under the Local Government Finance Act 1988 s 41(6B) (as added) (see para 121 ante) or s 41A(10) (as added) (see para 122 ante): see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 17(1); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 17(1).

6 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 17(1); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 17(1).

7 'Ratepayer' in relation to a hereditament, means the occupier or, if unoccupied, the owner: Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 2(1); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 2(1). Any notice to be served on the owner or occupier of any premises may be addressed by the description of 'owner' or 'occupier' of the premises, without further name or description: Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 40(3); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 40(3). For the meaning of 'owner' see para 13 ante. As to occupation see para 12 et seq ante.

8 'Proposal' means a proposal for the alteration of a local or central non-domestic rating list; and 'proposer' means the person making a proposal: Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 2(1); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 2(1). As to the circumstances in which proposals may be made, and as to other related matters, see para 130 et seq post. For these purposes, the proposer is any proposer for whom an appeal in relation to the hereditament has been referred to the relevant valuation tribunal under the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 13(1) (see para 138 post) or the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 13(1) (see para 138 post), as the case may be, and whose appeal has either not been determined by that tribunal, or has been so determined and either an appeal has been made to the Lands Tribunal (and that appeal has not been determined) or the time for making an appeal to the Lands Tribunal has not yet expired (see para 165 post): see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 17(5); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 17(5). 'Valuation tribunal' means the members of a valuation tribunal convened in accordance with the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, Pt 5 (regs 21–39) (as amended) or the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, Pt 5 (regs 21–39) (as amended), as the case may be (see para 151 et seq post), for the purpose of disposing of an appeal under the regulations which apply in each case; and the 'relevant valuation tribunal', in relation to a proposal or appeal, means the valuation tribunal established by regulations under the Local Government Finance Act 1988 s 136, Sch 11 (Sch 11 as amended) (see para 147 et seq post) for the area in which is situated the hereditament to which the proposal or appeal, as the case may be, relates: see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 2(1); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 2(1). As to the Lands Tribunal generally see COMPULSORY ACQUISITION OF LAND vol 8(1) (2003 Reissue) para 202 et seq.

9 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 17(2)(a); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 17(2)(a).

10 Ie the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, Pt 2 (regs 3–17) (as amended) and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, Pt 2 (regs 3–17), as the case may be (see para 130 et seq post): see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 17(2)(b); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 17(2)(b).

11 Ie the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, Pt 5 and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, Pt 5, as the case may be (see para 151 et seq post): see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 17(2)(b); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 17(2)(b).

12 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 17(2)(b); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 17(2)(b). However, head (2) in the text does not apply in relation to an alteration effected for reflecting a decision of the valuation officer that a proposal is well founded, or a decision (in relation to the hereditament which is the subject of the proposal) of a valuation tribunal or the Lands Tribunal or of a court determining an appeal or an application for review from either such tribunal, or an agreement made following a proposal (see para 137 post): Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 17(4); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 17(4).

13 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 17(3); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 17(3).

14 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 17(6); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 17(6).

B. ALTERATION OF LOCAL NON-DOMESTIC RATING LISTS

130. Proposals to alter local non-domestic rating lists. An interested person[1] may make a proposal[2] to alter a list[3] where he has reason to believe that any of the following grounds exists[4]. The grounds for making a proposal to alter a list are:

(1) the rateable value shown in the list for a hereditament was inaccurate on the day the list was compiled[5];
(2) the rateable value shown in the list for a hereditament is inaccurate by reason of a material change of circumstances[6] which occurred on or after the day the list was compiled[7];
(3) the rateable value shown in the list for a hereditament is inaccurate by reason of an amendment to the classes of plant and machinery prescribed for the purpose of rating such hereditaments[8], which comes into force on or after the day on which the list was compiled[9];
(4) the rateable value shown in the list for a hereditament is or has been inaccurate by reason of an alteration made by the valuation officer[10];
(5) the rateable value or any other information shown in the list for a hereditament is shown to be or to have been inaccurate by reason of a decision of a valuation tribunal, the Lands Tribunal, or a court determining an appeal or application for review from either such tribunal in relation to another hereditament[11];
(6) the day from which an alteration is shown in the list as having effect is wrong[12];
(7) a hereditament not shown in the list ought to be shown in that list[13];
(8) a hereditament shown in the list ought not to be shown in that list[14];
(9) the list should show that some part of a hereditament which is shown in the list is domestic property, or is exempt from non-domestic rating, but does not do so[15];
(10) the list should not show that some part of a hereditament which is shown in the list is domestic property, or is exempt from non-domestic rating, but does so[16];
(11) property which is shown in the list as more than one hereditament ought to be shown as one or more different hereditaments[17];
(12) property which is shown in the list as one hereditament ought to be shown as more than one hereditament[18];
(13) the address shown in the list for a hereditament is wrong[19];
(14) the description shown in the list for a hereditament is wrong[20]; and
(15) any statement required to be made about a hereditament[21] is omitted from the list[22].

A relevant authority[23] may make a proposal where it has reason to believe that any of the grounds set out in heads (2), (5), and (7) to (10) above exist[24]. A person who is not an interested person may make a proposal where he has reason to believe that one of the grounds set out in heads (3), (4) or (6) above exists, if he was an interested person at any time during which the alteration (or amendment) in question had effect[25].

In any case, no proposal may be made by reference to more than one ground unless, for each of the grounds relied upon, the material day[26] and the effective date[27] are the same[28].

1 For these purposes, 'interested person' means: (1) in relation to a hereditament which forms part of the Crown Estate and is held by the Crown Estate Commissioners under their management within the meaning of the Crown Estate Act 1961 s 1 (see CROWN PROPERTY vol 12(1) (Reissue) para 278), the Crown Estate Commissioners; (2) in relation to any other hereditament: (a) the occupier; (b) any other

person (other than a mortgagee not in possession) having in any part of the hereditament either a legal estate or an equitable interest such as would entitle him (after the cessation of any prior interest) to possession of the hereditament or any part of it; and (c) any person having a qualifying connection with any person described in head (a) or head (b) supra: Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 2(1); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 2(1). For the meaning of 'hereditament' see para 33 et seq ante. As to occupation see para 12 et seq ante. As to the Crown Estate Commissioners see CROWN PROPERTY vol 12(1) (Reissue) para 280 et seq. A person is to be treated as having a qualifying connection with another where both persons are companies and one is a subsidiary of the other (or where both are subsidiaries of the same company): Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 2(2)(a); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 2(2)(a). A person is also to be treated as having a qualifying connection with another, where only one person is a company, where the other person has such an interest in that company as would, if he were a company, result in its being the holding company of the other: Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 2(2)(b); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 2(2)(b). For the meanings of 'subsidiary', 'company' and 'holding company' see the Companies Act 1985 ss 736, 736A (prospectively repealed) (see COMPANIES vol 7(2) (2004 Reissue) para 1200); definitions applied by the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 2(1); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 2(1).

2 For the meaning of 'proposal' for these purposes see para 129 note 8 ante. As to the form and contents of proposals see para 132 post. Cases decided under earlier legislation relating to the need to specify particulars of the proposal may still be of some relevance as there may be some issue as to the degree of precision required: see e g *British American Typewriters v Hill (Valuation Officer)* [1962] RA 298, 9 RRC 353, Lands Tribunal; *Firkins v Dyer (Valuation Officer)* (1972) 17 RRC 363, Lands Tribunal. Cf *Evans v Lands (Valuation Officer)* [1973] RA 377, Lands Tribunal; *R v Assessment Committee for Thanet and District Assessment Area and County Valuation Committee for Kent, ex p Isle of Thanet Gas Light and Coke Co* [1939] 2 KB 640, [1939] 2 All ER 489 (a claim that the existing assessment was 'incorrect and unfair' did not amount to a proposal); *R v Heston and Isleworth Rating Authority, ex p Conti* [1941] 2 KB 146, [1941] 2 All ER 116; *Robinson Bros (Brewers) Ltd v Durham Assessment Committee* [1938] AC 321, [1938] 2 All ER 79, HL; *Motion, ex p St Albans Rubber Co* (1942) 36 R & IT 16; *R v Reading Assessment Committee, ex p McCarthy E Fitt Ltd* [1948] 1 All ER 194; *R v Surrey (Mid Eastern Area) Assessment Committee, ex p Merton and Morden UDC* [1948] 1 All ER 856; *R v Winchester Area Assessment Committee, ex p Wright* [1948] 2 KB 455, [1948] 2 All ER 552, CA; cf *Mayes v Millwood (Valuation Officer)* (1966) 12 RRC 244, Lands Tribunal; *Behrman v Seymour (Valuation Officer)* (1972) 17 RRC 333, Lands Tribunal; *Guest (Valuation Officer) v Boughton* [1981] RA 97; *Melland & Coward Ltd v Hare (Valuation Officer)* [1991] RA 283.

Most of the cases cited in this paragraph were decided prior to the coming into force of the Local Government Finance Act 1988 and, therefore, must now be considered in relation to the non-domestic rating provisions in Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 131 et seq post). As to the historical development of rating law and the continuing relevance of the old case law to the current statutory regime see para 2 ante.

3 Ie a local non-domestic rating list compiled on or after 1 April 2005: see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 3; and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 3. For the meaning of 'alter' for these purposes see para 129 note 4 ante. As to local rating lists see para 121 et seq ante.

4 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 4(2)(a); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 4(2)(a).

However, no proposal may be made by an interested person where that person (or a person having a qualifying connection with that person) has made a proposal to alter the same list in relation to the same hereditament on the same ground and arising from the same event: Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 4(3)(b)(i); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 4(3)(b)(i). For these purposes, 'event' means the compilation of the list (see para 121 ante), a material change of circumstances (as to which see note 6 infra) or an alteration of the list by the valuation officer: Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 4(4)(b); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 4(4)(b). For the meaning of 'valuation officer' for these purposes see para 129 note 1 ante. In relation to England only, it is specified that this provision refers to a person (or a person having a qualifying connection with that person) acting in the same capacity: see the Non-Domestic Rating (Alteration of Lists and Appeals)

(England) Regulations 2005, SI 2005/659, reg 4(3)(b)(i) (amended by SI 2006/2312). Nor may a proposal be made by an interested person where a proposal to alter the list in relation to the same hereditament and arising from the same facts has been made by another person (excluding a person having a qualifying connection with the interested person) and has been considered and determined by a valuation tribunal (otherwise than where the appeal has been dismissed on grounds of non-appearance (see para 157 post)) or, on appeal (see para 167 post), by the Lands Tribunal: Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 4(3)(b)(ii); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 4(3)(b)(ii). It may be that such a decision only prevents a further proposal being made during the life of that list (i e one five year period): see *Society of Medical Officers of Health v Hope (Valuation Officer)* [1960] AC 551, [1960] 1 All ER 317, HL; *Central Council for Health Education v Hope* (1958) 3 RRC 314; *Gudgeon (Valuation Officer) v Erith Borough Council and LCC* (1960) 7 RRC 9 (affd (1961) 8 RRC 324); *English Clays Lovering Pochin & Co Ltd v Davis (Valuation Officer)* (1966) 12 RRC 307 at 312, 319, Lands Tribunal.

5 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 4(1)(a); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 4(1)(a). As to the rateable value see para 86 et seq ante.

6 'Material change of circumstances' in relation to a hereditament means a change of any matters mentioned in the Local Government Finance Act 1988 s 56(1), Sch 6 para 2(7) (as amended) (see para 94 ante): Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 3; Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 3.

7 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 4(1)(b); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 4(1)(b).

The Lands Tribunal has no power to order an effective date for the alteration of a list earlier than the date of the material change of circumstances stated in the proposal: see *Courtney plc v Murphy (Valuation Officer)* [1998] RA 77, Lands Tribunal; and see para 159 post.

8 Ie the classes set out, in relation to England, in the Valuation for Rating (Plant and Machinery) (England) Regulations 2000, SI 2000/540, reg 2, Schedule (Schedule amended by SI 2001/846) and, in relation to Wales, in the Valuation for Rating (Plant and Machinery) (Wales) Regulations 2000, SI 2000/1097, reg 2, Schedule (see para 103 ante): see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 4(1)(c); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 4(1)(c).

9 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 4(1)(c); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 4(1)(c).

10 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 4(1)(d); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 4(1)(d). No proposal may be made on the grounds set out in head (4) in the text to the extent that the alteration in question gives effect to the decision of a valuation tribunal, the Lands Tribunal or a court determining an appeal or an application for a review from either such tribunal in relation to the hereditament concerned: Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 4(3)(c); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 4(3)(c). For the meaning of 'valuation tribunal' for these purposes see para 129 note 8 ante. As to the Lands Tribunal generally see COMPULSORY ACQUISITION OF LAND vol 8(1) (2003 Reissue) para 202 et seq.

11 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 4(1)(e); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 4(1)(e). There must be some causal link between the decision of the tribunal and the opinion of the ratepayer that the existing entry is incorrect. Where reference was made to a decision solely because in that case the valuation was found to be excessive and incorrect, the ratepayer had not based the opinion on any causal link between the proposal and the preceding decision: *Canning (Valuation Officer) v Corby Power Ltd* [1997] RA 60, Lands Tribunal.

12 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 4(1)(f); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 4(1)(f).

13 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 4(1)(g); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 4(1)(g).

14 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 4(1)(h); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 4(1)(h).

15 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 4(1)(i); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 4(1)(i). For the meaning of 'domestic property' in relation to non-domestic rating see para 120 ante. As to the exemptions from non-domestic rating see para 37 et seq ante.

16 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 4(1)(j); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 4(1)(j).

17 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 4(1)(k); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 4(1)(k).

18 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 4(1)(l); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 4(1)(l).

19 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 4(1)(m); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 4(1)(m).

20 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 4(1)(n); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 4(1)(n).

21 Ie under the Local Government Finance Act 1988 s 42 (as amended) (see para 123 ante): see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 4(1)(o); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 4(1)(o).

22 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 4(1)(o); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 4(1)(o).

23 For the meaning of 'relevant authority' see para 129 note 3 ante.

24 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 4(2)(b); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 4(2)(b).

25 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 4(2)(c); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 4(2)(c).

26 For these purposes, 'material day' in relation to a hereditament, is the day determined by the rules in regulations under the Local Government Finance Act 1988 Sch 6 para 2(6A) (as added and substituted) (see para 94 ante): Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 4(4)(c); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 4(4)(c).

27 For these purposes, 'effective date' means the day from which the alteration, if made, would have effect in pursuance of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, Pt 2 (as amended) or the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, Pt 2, as the case may be (see para 131 et seq post): Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 4(4)(a); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 4(4)(a).

28 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 4(3)(a); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 4(3)(a).

131. Time for making proposals. A proposal[1] to alter[2] a list[3] may be made at any time before the day on which the next list is compiled[4]. However, a proposal made on the ground that: (1) the rateable value is inaccurate following an alteration made by the valuation officer[5]; or (2) the day from which an alteration is shown in the list as having effect is wrong[6], may only be made before the day on which the next list is compiled or within six months of the date of the alteration, whichever is the later[7]. A proposal made on the ground that the rateable value or any other information shown in the list for a hereditament[8] is shown to be or to have been inaccurate by reason of a decision of a valuation tribunal, the Lands Tribunal, or a court determining an appeal or application for review from either such tribunal in relation to another hereditament[9], may only be

made, in relation to England[10], no later than six months after the day on which the next list is compiled[11] and, in relation to Wales[12], within six months of the day on which the next list is compiled[13].

1 For the meaning of 'proposal' for these purposes see para 129 note 8 ante. As to the circumstances in which proposals may be made see para 130 ante.
2 For the meaning of 'alter' for these purposes see para 129 note 4 ante.
3 Ie a local non-domestic rating list compiled on or after 1 April 2005: see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, regs 3, 5(1); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, regs 3, 5(1). As to local rating lists see para 121 et seq ante.
4 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 5(1); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 5(1). As to the compilation of local non-domestic rating lists see para 121 ante. There is no power for a valuation tribunal and the Lands Tribunal to extend the time for making a proposal: *Esau Bros v Rodd (Valuation Officer)* [1992] RA 257, Lands Tribunal. As to valuation tribunals see para 147 et seq post. As to the Lands Tribunal see generally COMPULSORY ACQUISITION OF LAND vol 8(1) (2003 Reissue) para 202 et seq.
5 Ie on the ground set out in the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 4(1)(d) or the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 4(1)(d), as the case may be (see para 130 ante): see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 5(2)(a); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 5(2)(a). For the meaning of 'valuation officer' for these purposes see para 129 note 1 ante. As to the rateable value see para 86 et seq ante.
6 Ie on the ground set out in the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 4(1)(f) or the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 4(1)(f), as the case may be (see para 130 ante): see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 5(2)(a); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 5(2)(a).
7 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 5(2)(a); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 5(2)(a).
8 For the meaning of 'hereditament' see para 33 et seq ante.
9 Ie on the ground set out in the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 4(1)(e) or the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 4(1)(e), as the case may be (see para 130 ante): see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 5(2)(b); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 5(2)(b).
10 For the meaning of 'England' see para 1 note 2 ante.
11 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 5(2)(b) (amended by SI 2006/2312).
12 For the meaning of 'Wales' see para 1 note 2 ante.
13 Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 5(2)(b). It is submitted that, despite the variant wording, the limitation set by this provision is the same as that having effect in relation to England (see the text and notes 10–11 supra).

132. Form and contents of proposals. A proposal[1] to alter[2] a list[3] must be made by notice in writing served on the valuation officer[4], and must state the name and address of the proposer[5] and his relationship in respect of the property[6].

Such a proposal must also identify the property to which it relates[7] and the respects in which the list is proposed to be altered[8], including a statement of the grounds for making the proposal and, in certain cases, a statement of the reasons for believing that those grounds exist[9]. Where the proposal is made because the rateable value shown in the list for a hereditament is inaccurate by reason of a material change of circumstances which occurred on or after the date of the list's compilation[10], the proposal must include a statement of the nature of the change in question and the date on which the proposer believes the change occurred[11]. If the proposal is made because an alteration made by

the valuation officer is inaccurate[12], or because the day from which an alteration is shown as having effect is wrong[13], it must include a statement identifying the alteration in question, whether by reference to the day on which the alteration was made or otherwise[14]. Where a proposal is made because a decision of a court or tribunal in relation to another hereditament shows the entry in the list for the proposer's hereditament to be inaccurate[15], it must include the following information[16]:

(1) the identity of the hereditament to which the decision in question relates[17];

(2) the name of the tribunal or court which made the decision[18];

(3) the date of the decision[19];

(4) the reasons for believing that the decision is relevant to the rateable value or other information to which the proposal relates[20]; and

(5) the reasons for believing, in the light of the decision, that the rateable value or other information to which the proposal relates is inaccurate[21].

Where a proposal is made on one or more of specified grounds[22] in respect of a hereditament occupied under a lease, easement or licence to occupy[23], it must include the amount payable each year, as at the date of the proposal, in respect of the lease, easement or licence to occupy[24].

A proposal may deal with more than one hereditament only: (a) where it is made on the ground that the property is shown in the list as more than one hereditament but ought to be one or more different hereditaments[25], or on the ground that the property is shown as one hereditament but should be more than one hereditament[26]; or (b) where the person making the proposal does so in the same capacity as respects each hereditament and each hereditament is within the same building or curtilage[27].

1 For the meaning of 'proposal' for these purposes see para 129 note 8 ante. As to the circumstances in which proposals may be made see para 130 ante.

2 For the meaning of 'alter' for these purposes see para 129 note 4 ante.

3 Ie a local non-domestic rating list compiled on or after 1 April 2005: see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 3; and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 3. As to local rating lists see para 121 et seq ante.

4 Any notice to be served on a valuation officer may be served by addressing the notice to the valuation officer for the area in question, without further description, and by delivering it or sending it to the valuation officer's office by post or electronic communication: Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 40(4); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 40(4). For the meaning of 'electronic communication' see para 129 note 2 ante; and for the meaning of 'valuation officer' see para 129 note 1 ante. As to valuation officers generally see para 6 ante. As to the service of notices generally see para 129 notes 2, 7 ante.

5 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 6(1)(a); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 6(1)(a). For the meaning of 'proposer' see para 129 note 8 ante.

6 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 6(1)(b); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 6(1)(b). For these purposes, the proposal must state whether the proposer is, in respect of the property, the interested person, the relevant authority, or a person who is not an interested party but is described in the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 4(2)(c) or the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 4(2)(c), as the case may be (see para 130 ante): see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 6(1)(b); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 6(1)(b). In relation to England only, it is specified that where the proposer is the interested person, the proposal must state additionally the capacity in which he makes the proposal: see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 6(1)(b) (amended by SI 2006/2312). For the meaning of 'relevant authority' see para 129 note 3 ante; and for the meaning of 'interested person' see para 130 note 1 ante.

As to cases decided under earlier legislation which related to the need to specify particulars of the proposal and which may still be of some relevance as to the degree of precision required see para 130 note 2 ante.

7 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 6(1)(c); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 6(1)(c).

An adequate identification may be sufficient: see *Excel Logistics Ltd v Oliver (Valuation Officer)* [1995] RA 336 (proposal was construed using common sense and assuming knowledge of the locality and the valuation list); *Mersey Master Mariners' Club v West Derby Assessment Committee* (1951) 44 R & IT 358. Identification of a hereditament which no longer exists will be invalid: *R v Northamptonshire Local Valuation Court, ex p Anglian Water Authority* [1990] RA 93, CA. See also *Westminster City Council v Woodbury (Valuation Officer) and the Yard Arm Club Ltd* [1992] RA 1, CA; *Floatels (UK) Ltd v Perrin (Valuation Officer)* [1995] RA 326, where it was held that a proposal to alter a list was invalid as it related not to land but to chattels which are unrateable. For the meaning of 'hereditament' see para 33 et seq ante.

Where cases cited in this paragraph were decided prior to the coming into force of the Local Government Finance Act 1988, they must now be considered in relation to the non-domestic rating provisions in Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 133 et seq post). As to the historical development of rating law and the continuing relevance of the old case law to the current statutory regime see para 2 ante.

8 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 6(1)(d); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 6(1)(d).

9 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 6(1)(e)(i); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 6(1)(e)(i). The reasons for believing that the grounds exist must be included for proposals made under the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 4(1)(a), (c) or (g)–(o) or under the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 4(1)(a), (c) or (g)–(o), as the case may be (see para 130 ante): see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 6(1)(e)(i); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 6(1)(e)(i).

10 Ie the ground set out in the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 4(1)(b) or in the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 4(1)(b), as the case may be (see para 130 ante): see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 6(1)(e)(ii); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 6(1)(e)(ii). For the meaning of 'material change of circumstances' in relation to a hereditament see para 130 note 6 ante. As to the rateable value see para 86 et seq ante.

11 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 6(1)(e)(ii); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 6(1)(e)(ii).

12 Ie the ground set out in the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 4(1)(d) or in the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 4(1)(d), as the case may be (see para 130 ante): see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 6(1)(e)(iii); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 6(1)(e)(iii).

13 Ie the ground set out in the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 4(1)(f) or in the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 4(1)(f), as the case may be (see para 130 ante): see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 6(1)(e)(iii); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 6(1)(e)(iii).

14 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 6(1)(e)(iii); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 6(1)(e)(iii). Where the proposal is made on the ground set out in the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 4(1)(f) or in the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 4(1)(f), as the case may be (see para 130 ante), it also must include a statement of the day proposed in place of the day shown in the list: Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 6(1)(e)(v); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 6(1)(e)(v).

A proposal made on either of the grounds cited in the text and notes 12–13 supra may include a request for either or both of the following:

(1) the restoration of the list to its state before the alteration was made (Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 6(5)(a); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 6(5)(a)); and

(2) a further alteration of the list in respect of the hereditament (Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 6(5)(b); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 6(5)(b)).

15 Ie the ground set out in the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 4(1)(e) or in the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 4(1)(e), as the case may be (see para 130 ante): see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 6(1)(e)(iv); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 6(1)(e)(iv).

16 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 6(1)(e)(iv); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 6(1)(e)(iv).

17 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 6(2)(a); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 6(2)(a).

18 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 6(2)(b); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 6(2)(b).

19 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 6(2)(c); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 6(2)(c).

20 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 6(2)(d); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 6(2)(d).

21 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 6(2)(e); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 6(2)(e).

22 Ie one or more of the grounds set out in the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 4(1)(a)–(g), (i)–(l) or in the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 4(1)(a)–(g), (i)–(l), as the case may be (see para 130 ante): see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 6(1)(e)(vi) (amended by SI 2006/2312); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 6(1)(e)(vi).

23 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 6(1)(e)(vi) (as amended: see note 22 supra); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 6(1)(e)(vi). As to occupation see para 12 et seq ante. In relation to England only, this provision does not apply to a proposal made by a relevant authority or by a person who is not an interested party but is described in the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 4(2)(c) (see para 130 ante): see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 6(1)(e)(vi) (as so amended).

24 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 6(3)(a) (reg 6(3) substituted by SI 2006/2312); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 6(3). In relation to England, it is specified that this provision applies only to proposals where the proposer is the occupier and the amount to be specified is, accordingly, that payable each year by the proposer: see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 6(3)(a) (as so substituted). Where the proposer is not the occupier, the proposal must include the amount payable each year to the proposer, as at the date of the proposal, in respect of the lease, easement or licence to occupy: reg 6(3)(b) (as so substituted).

25 Ie the ground set out in the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 4(1)(k) or in the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 4(1)(k), as the case may be (see para 130 ante): see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 6(4)(a); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 6(4)(a).

26 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 6(4)(a); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 6(4)(a). The text refers to the ground set out in the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 4(1)(l) or in the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 4(1)(l), as the case may be (see para 130 ante): see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 6(4)(a); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 6(4)(a).

27 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 6(4)(b); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 6(4)(b). It is important to specify clearly both hereditaments within one curtilage if it is intended to alter both by proposal: *R v Cardiff Justices, ex p Cardiff Corpn* [1962] 2 QB 436, sub nom *R v City of Cardiff Justices, ex p Cardiff City Council* [1962] 1 All ER 751.

133. Proceedings after the making of a proposal. Within the period of four weeks beginning with the day on which he receives a proposal[1], the valuation officer[2] must acknowledge its receipt by notice in writing served on the proposer[3]. The notice of acknowledgement must specify the date of receipt of the proposal and must be accompanied by a statement of the effect of the regulations[4] which govern subsequent procedures available to both the valuation officer and the proposer in respect of a valid proposal[5].

1 For the meaning of 'proposal' for these purposes see para 129 note 8 ante. As to invalid proposals see para 134 post.

2 For the meaning of 'valuation officer' see para 129 note 1 ante. As to valuation officers generally see para 6 ante.

3 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 7(1); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 7(1). For the meaning of 'proposer' see para 129 note 8 ante. However, this provision does not apply where a valuation officer serves a notice under the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 8 (as amended) or in the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 8 (as amended), as the case may be, in respect of the proposal (see para 134 post): Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 7(2); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 7(2). As to the service of notices generally see para 129 notes 2, 7 ante; and as to the service of notices on valuation officers see para 132 note 4 ante.

4 Ie the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, regs 9–13 or in the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, regs 9–13, as the case may be (see para 135 et seq post): see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 7(3); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 7(3).

5 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 7(3); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 7(3).

134. Invalid proposals. Where the valuation officer[1] is of the opinion that a proposal[2] has not been validly made[3], he may serve notice (an 'invalidity notice') on the proposer[4] that he is of that opinion[5]. The valuation officer must state the reasons for that opinion[6] and notify the proposer that within four weeks of service upon him of the invalidity notice he may make a further proposal[7], or may appeal against the notice to the relevant valuation tribunal[8].

The valuation officer may withdraw an invalidity notice at any time by serving notice in writing on the proposer; and on such withdrawal any appeal against the invalidity notice must be treated as having been withdrawn[9]. Unless an invalidity notice has been withdrawn in this way, the proposer may, within four weeks of its service on him[10]: (1) make a further proposal in relation to the same property, notwithstanding the previous expiry of any period applicable to making a proposal[11]; or (2) appeal against the notice to the relevant valuation tribunal[12]. However, no proposal may be made under head (1)

above where the proposal to which the invalidity notice relates was made either under head (1) above itself[13] or after the expiry of any period applicable to making a proposal[14]. Where a proposal is made under head (1) above, the proposal in respect of which the invalidity notice was served must be treated as withdrawn[15].

An appeal against an invalidity notice must be initiated by serving a notice of disagreement upon the valuation officer[16] and, unless the valuation officer withdraws the invalidity notice within four weeks of the service of the disagreement notice[17], the valuation officer must inform the clerk of the relevant valuation tribunal, on the expiry of that period[18]: (a) of the entry in the list (if any) which it is proposed to alter[19]; (b) of the grounds on which the proposal was made[20]; and (c) of the reasons for the valuation officer's opinion that the proposal has not been validly made[21]. Where such information has been supplied and the invalidity notice is withdrawn, the valuation officer must inform the clerk of the valuation tribunal of the withdrawal as soon as is practicable[22]. Until it is finally decided[23] that the proposal to which the invalidity notice relates was validly made, no further steps for processing the proposal can be taken[24]. However, where it is finally decided as so mentioned, those procedures have effect as if the proposal had been served on the valuation officer on the date of that final decision[25].

Parties to an appeal against a proposal[26] are not prevented by anything done under the provisions which govern invalid proposals[27] from contending for the purposes of that appeal that the proposal to which the appeal relates was not validly made[28].

1 For the meaning of 'valuation officer' see para 129 note 1 ante. As to valuation officers generally see para 6 ante.

2 For the meaning of 'proposal' for these purposes see para 129 note 8 ante.

3 For examples of invalidity see: *Canning (Valuation Officer) v Corby Power Ltd* [1997] RA 60 (no causal link between valuation decision and opinion of the ratepayer); *Green (Valuation Officer) v Barnet London Borough Council* [1994] RA 235, Lands Tribunal (a proposal is not invalid because it proposes to enter in the list as a separate hereditament property which is not contiguous with a larger hereditament owned by the same ratepayer). See also *Edwards (Valuation Officer) v BP Refining* [1974] RA 1. Cf the conflicting decisions in *Eagle Construction Ltd v Casey (Valuation Officer) and Croydon Borough Council* [1981] RA 347; *Aluwihare (Valuation Officer) v MFI Properties Ltd* [1988] 1 EGLR 219, [1987] RA 189. For earlier examples see *Steel Barrel Co Ltd v Priest (Valuation Officer)* (1951) 44 R & IT 492, Lands Tribunal (additional words in the proposal served on the ratepayer did not render it invalid provided the ratepayer not thereby prejudiced); *Rochdale Canal Co v Walton (Valuation Officer)* (1954) 47 R & IT 473, Lands Tribunal (two proposals made simultaneously in respect of the same hereditament could be treated as one, and could supply each other's defects).

Most of the cases cited in this paragraph were decided prior to the coming into force of the Local Government Finance Act 1988 and, therefore, must now be considered in relation to the non-domestic rating provisions in Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 135 et seq post). As to the historical development of rating law and the continuing relevance of the old case law to the current statutory regime see para 2 ante.

4 In relation to England, the valuation officer may serve such notice at any time after the service of a proposal on him: see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 8(1) (as substituted: see note 5 infra). However, he may not serve an invalidity notice more than four weeks after the proposal to which it relates was served on him other than with the consent of the proposer, given by notice in writing: reg 8(1B) (reg 8(1A)–(1C) added by SI 2006/2312). In relation to Wales, the valuation officer may serve an invalidity notice only within four weeks of the service of a proposal on him: see the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 8(1). For the meanings of 'England' and 'Wales' see para 1 note 2 ante. For the meaning of 'proposer' see para 129 note 8 ante. As to the service of notices generally see para 129 notes 2, 7 ante; and as to the service of notices on valuation officers specifically see para 132 note 4 ante.

5 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 8(1) (substituted by SI 2006/2312); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 8(1).

The Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 8(1) (as substituted) is subject to reg 8(1A) (as added), reg 8(1B) (as added) (see note 4 supra) and reg 8(1C) (as added): see reg 8(1) (as substituted). Accordingly, in relation to England, the valuation officer may not issue an invalidity notice after any notice has been given under reg 25(2) (see

para 154 post) that all parties have given their agreement that an appeal may be disposed of on the basis of written representations, after any notice has been given under reg 27(1) (see para 156 post) of the date, time and place appointed for the hearing by the valuation tribunal of an appeal arising from the proposal, or after any agreement has been reached under reg 38(1) (see para 164 post): reg 8(1A) (as added: see note 4 supra). Where an invalidity notice is served more than four weeks after the proposal to which it relates was served on the valuation officer, but before a disagreement as to the proposed alteration has been referred to the relevant valuation tribunal under reg 13 (see para 138 post), then:

(1) the invalidity notice must state the effect of reg 8(9A) (as added) (see note 24 infra) (reg 8(1C)(a)(i) (as added: see note 4 supra)); and
(2) the valuation officer must serve a copy of the invalidity notice on any person who has been served a copy of the proposal to which it relates under reg 9 (see para 135 post) and on any interested person who has served notice under reg 11(3)(a) (see para 136 post) (reg 8(1C)(a)(ii) (as so added)).

Where an invalidity notice is served and a disagreement as to the proposed alteration has been referred to the relevant valuation tribunal under reg 13, then:

(a) the invalidity notice must state the effect of reg 23(2) (see para 151 post) (reg 8(1C)(b)(i) (as so added));
(b) the valuation officer must serve a copy of the invalidity notice on any person who has been served a copy of the proposal to which it relates under reg 9 and on any interested person who has served notice under reg 11(3)(a) (reg 8(1C)(b)(ii) (as so added)); and
(c) the valuation officer must inform the clerk of the relevant valuation tribunal that the invalidity notice has been served and of any withdrawal of that notice under reg 8(2) (see the text and note 9 infra) (reg 8(1C)(b)(iii) (as so added)).

For the meanings of 'relevant valuation tribunal' and 'valuation tribunal' see para 129 note 8 ante.

6 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 8(1)(a) (as substituted: see note 5 supra); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 8(1)(a).

7 Ie stating the effect of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 8(3)–(5) (as amended) or of the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 8(3)–(5) (as amended), as the case may be (see the text and notes 10–15 infra): see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 8(1)(b) (as substituted: see note 5 supra); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 8(1)(b).

8 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 8(1)(b) (as substituted: see note 5 supra); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 8(1)(b). The text refers to the effect of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 8(6) or of the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 8(6), as the case may be (see the text and note 16 infra): see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 8(1)(b) (as so substituted); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 8(1)(b).

9 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 8(2); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 8(2).

10 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 8(3); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 8(3) (amended by SI 2006/1035).

11 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 8(3)(a); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 8(3)(a). The text refers to the previous expiry of any period applicable to making a proposal under the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 5 (as amended) or under the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 5, as the case may be (see para 131 ante): see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 8(3)(a); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 8(3)(a).

12 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 8(3)(b); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 8(3)(b).

13 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 8(4)(a); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 8(4)(a).

14 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 8(4)(b); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 8(4)(b). The text refers to the expiry of any period applicable to making a proposal under the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 5 (as amended) or under the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 5, as the case may be (see para 131 ante): see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 8(4)(b); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 8(4)(b).

15 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 8(5)(a) (reg 8(5) substituted by SI 2006/2312); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 8(5). In relation to England only, it is specified further that where a proposal is made under head (1) in the text and where a disagreement as to the proposed alteration has been referred to the relevant valuation tribunal under reg 13 as an appeal (see para 138 post), that appeal must be treated as withdrawn also: Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 8(5)(b) (as so substituted).

16 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 8(6); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 8(6).

17 Ie service of the notice under the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 8(6) or under the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 8(6), as the case may be (see the text and note 16 supra): see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 8(7); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 8(7).

18 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 8(7); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 8(7).

19 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 8(7)(a); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 8(7)(a).

20 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 8(7)(b); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 8(7)(b).

21 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 8(7)(c); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 8(7)(c).

22 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 8(8); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 8(8).

23 For these purposes, a final decision is made, where the invalidity notice is withdrawn, on the day of the withdrawal and, in any other case, on the day on which, the valuation tribunal having determined the appeal, the period within which an appeal to the Lands Tribunal may be made (see para 165 post) expires without such appeal being made, or on the day on which the Lands Tribunal gives a decision on such appeal (see para 165 post): Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 8(10) (amended by SI 2006/2312); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 8(10).

24 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 8(9) (amended by SI 2006/2312); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 8(9). The text refers to the further steps for processing the proposal under the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, regs 9–13 or under the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, regs 9–13, as the case may be (see para 135 et seq post), which do not apply pending a final decision on the proposal's validity: see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 8(9) (as so amended); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 8(9).

In relation to England only, it is specified further that, where an invalidity notice is served more than four weeks after the service of the proposal to which it relates, any period of time in the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, regs 9–13 which has started to run:

(1) ceases to run with effect from the date of service of the notice until it is finally decided that the proposal was validly made (reg 8(9A)(a) (reg 8(9A) added by SI 2006/2312)); and
(2) where it is finally decided as so mentioned, starts to run again with effect from the date of that final decision as if there had been no interruption (Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 8(9A)(b) (as so added)).

25 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 8(9) (as amended: see note 24 supra); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 8(9).

26 Ie under the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 13 or under the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 13, as the case may be (see para 138 post): see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 8(11); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 8(11). Any reference to a party to an appeal includes the person making the appeal (the appellant) and, in relation to an appeal under the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 8 (as amended) or under the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 8 (as amended), as the case may be, the valuation officer or, as the case may be, the central valuation officer: Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 2(3)(a); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 2(3)(a).

27 Ie anything done under the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 8 (as amended) or under the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 8 (as amended), as the case may be: see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 8(11); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 8(11).

28 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 8(11); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 8(11).

135. Procedure after a proposal is made. Within the period of six weeks, beginning on the day on which a proposal[1] is served on him, the valuation officer[2] must serve a copy of the proposal on any ratepayer[3] (not being the proposer[4]) in relation to the hereditament[5] to which the proposal relates[6]; and he must also serve a copy on the relevant authority[7] (not being the proposer) where that authority is a special authority[8] or where that authority has served a notice on the valuation officer that it wishes to receive a copy of a class or classes of proposal, and the proposal falls within any such class[9]. Each copy of a proposal served on a ratepayer (not being the proposer) must be accompanied by a statement of the effect and procedure following service of a proposal[10].

Where the valuation officer is of the opinion that a proposal is well founded, he must alter the list[11] accordingly, as soon as is reasonably practicable[12].

1 For the meaning of 'proposal' for these purposes see para 129 note 8 ante.

2 For the meaning of 'valuation officer' see para 129 note 1 ante. As to valuation officers generally see para 6 ante.

3 For the meaning of 'ratepayer' for these purposes see para 129 note 7 ante. As to the service of notices generally see para 129 notes 2, 7 ante; and as to the service of notices on valuation officers specifically see para 132 note 4 ante.

4 For the meaning of 'proposer' for these purposes see para 129 note 8 ante.

5 For the meaning of 'hereditament' see para 33 et seq ante.

6 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 9(1)(a); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 9(1)(a).

7 For the meaning of 'relevant authority' see para 129 note 3 ante.

8 As to special authorities see para 60 note 10 ante.

9 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 9(1)(b); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 9(1)(b).

10 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 9(2); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 9(2). The text refers to the procedure following service of a proposal which is contained in the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, regs 9 and 10–13 or in the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, regs 9 and 10–13, as the case may be (see also para 136 et seq post): see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 9(2); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 9(2).

11 Ie a local non-domestic rating list compiled on or after 1 April 2005: see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 3; and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 3. As to local rating lists see para 121 et seq ante.

12 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 10; Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 10.

136. Withdrawal of proposals. The proposer[1] may withdraw a proposal[2] by serving a notice[3] in writing on the valuation officer[4]. However, where the proposer was a ratepayer[5] in respect of the hereditament[6] at the date of the proposal but has since ceased to be so, the proposal may not be withdrawn unless the current ratepayer has agreed in writing[7].

If, within the period of two months beginning on the day on which a proposal is served on the valuation officer, an interested person[8] serves notice on the valuation officer in writing that he wishes to be a party to proceedings in respect of that proposal[9], and the proposal is subsequently withdrawn[10], the valuation officer must serve notice of that withdrawal on that interested person[11]. Where, within the period of six weeks beginning on the day on which a withdrawal notice is served on him in this way, an interested person serves notice in writing on the valuation officer that he is aggrieved by the withdrawal of the proposal[12]: (1) the notice must, if that person would at the date of the proposal himself have been competent to make that proposal, be treated[13] as if it had been a proposal in the same terms made on the day on which the notice was served[14]; and (2) any resulting alteration[15] has effect from the day which would have been applicable had there been no withdrawal[16].

1 For the meaning of 'proposer' for these purposes see para 129 note 8 ante.

2 For the meaning of 'proposal' for these purposes see para 129 note 8 ante.

3 As to the service of notices generally see para 129 notes 2, 7 ante.

4 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 11(1); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 11(1). For the meaning of 'valuation officer' see para 129 note 1 ante. As to valuation officers generally see para 6 ante; and as to the service of notices on valuation officers specifically see para 132 note 4 ante.

5 For the meaning of 'ratepayer' for these purposes see para 129 note 7 ante.

6 For the meaning of 'hereditament' see para 33 et seq ante.

7 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 11(2); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 11(2).

8 For the meaning of 'interested person' for these purposes see para 130 note 1 ante.

9 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 11(3)(a); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 11(3)(a).

10 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 11(3)(b); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 11(3)(b).

11 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 11(3); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 11(3).

12 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 11(4); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 11(4).

13 Ie for the purposes of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, regs 12–42 (as amended) or the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, regs 12–42 (as amended), as the case may be (see paras 129 et seq ante, 137 et seq post): see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 11(4)(a); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 11(4)(a).

14 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 11(4)(a); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 11(4)(a).

15 For the meaning of 'alteration' for these purposes see para 129 note 4 ante.

16 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 11(4)(b); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 11(4)(b).

137. Agreed alterations. Where, following the making of a proposal[1], all the persons mentioned in heads (a) to (e) below agree on an alteration of the list[2] in terms differing from those contained in the proposal, and that agreement is signified in writing[3]:

(1) the valuation officer[4] must alter the list to give effect to the agreement not later than the expiry of the period of two weeks beginning on the day on which the agreement was made[5]; and

(2) the proposal is treated as having been withdrawn[6].

The persons who must agree for these purposes are: (a) the valuation officer[7]; (b) the proposer[8]; (c) the occupier (at the date of the proposal) of any hereditament to which the proposal relates[9]; (d) the ratepayer[10] (at the date of the agreement) in relation to any hereditament to which it relates[11]; and (e) any interested person[12] or relevant authority[13] who would at the date of the proposal have been competent to make the proposal in question, and has, within the period of two months beginning on the day on which the proposal was served on the valuation officer, served notice on him in writing indicating a wish to be a party to proceedings in respect of the proposal[14].

1 For the meaning of 'proposal' for these purposes see para 129 note 8 ante.

2 Ie the alteration of a local non-domestic rating list compiled on or after 1 April 2005 in accordance with the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, Pt 2 (regs 3–17) (as amended) or the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, Pt 2 (regs 3–17) (as amended), as the case may be (see paras 130 et seq ante, 138 et seq post): see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, regs 3, 12(1); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, regs 3, 12(1). As to local rating lists see para 121 et seq ante. For the meaning of 'alteration' for these purposes see para 129 note 4 ante.

3 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 12(1); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 12(1).

4 For the meaning of 'valuation officer' see para 129 note 1 ante. As to valuation officers generally see para 6 ante.

5 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 12(1)(a); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 12(1)(a). Where the period of two weeks mentioned in head (1) in the text would expire before the period of two months mentioned in head (e) in the text, the alteration required by head (1) in the text must, where no notice is served as mentioned in head (e) in the text, be made as soon as practicable after the expiry of that period of two months: Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 12(4); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 12(4).

6 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 12(1)(b); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 12(1)(b).

7 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 12(2)(a); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 12(2)(a).

8 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 12(2)(b); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 12(2)(b). For the meaning of 'proposer' for these purposes see para 129 note 8 ante.

9 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 12(2)(c); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 12(2)(c). However, where the occupier of the hereditament at the date of the proposal is no longer in occupation of any part of it, at the date on which all the other persons (i e those mentioned in heads (a), (b), (d) and (e) in the text) have agreed to the alteration as required by head (1) in the text, and the valuation officer has taken all reasonable steps to ascertain his whereabouts, but they have not been ascertained, the agreement of that person is not required: Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 12(3)(a); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 12(3)(a). For the meaning of 'occupier' see para 13 ante; and for the meaning of 'hereditament' see para 33 et seq ante.

10 For the meaning of 'ratepayer' for these purposes see para 129 note 7 ante.

11 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 12(2)(d); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 12(2)(d).

12 For the meaning of 'interested person' for these purposes see para 130 note 1 ante.

13 For the meaning of 'relevant authority' see para 129 note 3 ante.

14 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 12(2)(e); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 12(2)(e). However, where any interested person who has given notice as mentioned in head (e) in the text cannot be contacted at the address supplied to the valuation officer (whether in the notice or otherwise), the agreement of that person is not required: Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 12(3)(b); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 12(3)(b).

138. Disagreement as to proposed alteration. Where the valuation officer[1] is not of the opinion that a proposal[2] is well founded[3], and:

(1) the proposal is not withdrawn[4]; and

(2) there is no subsequent agreement on the alteration to be made to the list[5],

he must refer the disagreement to the relevant valuation tribunal[6] no later than the expiry of the period of three months beginning on the day on which the proposal was served on him[7]. Such a referral forms an appeal by the proposer[8] against the valuation officer's refusal to alter the list[9], and takes place by means of the valuation officer transmitting to the clerk of the tribunal[10] a statement of the following matters[11], namely:

(a) the entry in the list (if any) which is proposed to be altered[12];

(b) the date of service of the proposal[13];

(c) the names and addresses (where known to the valuation officer) of all persons whose agreement is required for a subsequent alteration[14]; and

(d) the grounds on which the proposal was made[15].

The valuation officer also must transmit to the clerk of the tribunal the name and address supplied to him by any other person who has notified[16] him of their wish to be a party to the appeal[17].

1 For the meaning of 'valuation officer' see para 129 note 1 ante. As to valuation officers generally see para 6 ante.

2 For the meaning of 'proposal' for these purposes see para 129 note 8 ante.

3 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 13(1); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 13(1).

4 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 13(1)(a); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 13(1)(a). As to withdrawal of a proposal see para 136 ante.

5 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 13(1)(b); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005,

SI 2005/758, reg 13(1)(b). The text refers to there being no agreement as provided in the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 12 or in the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 12, as the case may be (see para 137 ante): see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 13(1)(b); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 13(1)(b). 'List' means a local non-domestic rating list compiled on or after 1 April 2005: see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 3; and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 3. As to local rating lists see para 121 et seq ante. For the meaning of 'alteration' for these purposes see para 129 note 4 ante.

6 For the meanings of 'relevant valuation tribunal' and 'valuation tribunal' see para 129 note 8 ante.

7 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 13(1); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 13(1).

8 For the meaning of 'proposer' for these purposes see para 129 note 8 ante.

9 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 13(1); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 13(1).

10 'Clerk', in relation to an appeal, means the clerk of the relevant valuation tribunal: Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 2(1); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 2(1).

11 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 13(2); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 13(2). As to the valuation officer's duty of transmission see *R v West Norfolk Local Valuation Panel, ex p H Prins Ltd* [1975] RA 101, 73 LGR 206, DC; *Knight v Morton Valuation Officer* [1988] RVR 5, Lands Tribunal. These cases were decided prior to the coming into force of the Local Government Finance Act 1988 and, therefore, must now be considered in relation to the non-domestic rating provisions in Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 139 et seq post). As to the historical development of rating law and the continuing relevance of the old case law to the current statutory regime see para 2 ante.

12 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 13(2)(a); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 13(2)(a).

13 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 13(2)(b); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 13(2)(b).

14 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 13(2)(c); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 13(2)(c). The text refers to persons whose agreement is required by the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 12 or by the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 12, as the case may be (see para 137 ante): see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 13(2)(c); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 13(2)(c).

Any reference to a party to an appeal includes the person making the appeal (the 'appellant') and, in relation to an appeal under the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 13 or under the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 13, as the case may be:

(1) every person whose agreement is required as per head (c) in the text (Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 2(3)(b)(i); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 2(3)(b)(i)); and

(2) any other person who has been a ratepayer in relation to the hereditament since the proposal was made and who has notified the valuation officer in writing before the hearing, or before determination on the basis of written representations under the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 25 or under the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 25, as the case may be (see para 154 post) that they wish to be a party to the appeal (Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 2(3)(b)(ii); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 2(3)(b)(ii)).

For the meaning of 'hereditament' see para 33 et seq ante; and for the meaning of 'ratepayer' for these purposes see para 129 note 7 ante.

15 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 13(2)(d); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 13(2)(d).

16 Ie under the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 2(3)(b)(ii) or under the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 2(3)(b)(ii), as the case may be (see note 14 head (2) supra): see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 13(3); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 13(3) (as amended: see note 17 infra).

17 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 13(3); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 13(3) (amended by SI 2006/1035).

139. Time from which alteration is to have effect. In relation to alterations[1] made to a list compiled on or after 1 April 2005[2]:

(1) subject to heads (2) to (5) below, where an alteration is made to correct any inaccuracy in the list on or after the day it is compiled, the alteration has effect from the day on which the circumstances giving rise to the alteration first occurred[3];

(2) where an alteration is made to give effect to a completion notice[4], the alteration has effect from the day specified in the notice[5];

(3) where the day on which the relevant circumstances arose is not reasonably ascertainable, and where the alteration is made in pursuance of a proposal, the alteration has effect from the day on which the proposal was served on the valuation officer[6]; and, in any other such case, the alteration has effect from the day on which it is made[7];

(4) an alteration made to correct an inaccuracy (other than one which has arisen by reason of an error or default on the part of a ratepayer[8]), either in the list on the day it was compiled[9] or which arose in the course of making a previous alteration in connection with the matters mentioned in heads (1) to (3) above[10], which increases the rateable value shown in the list for the hereditament to which the inaccuracy relates[11], has effect from the day on which the alteration is made[12]; and

(5) where an alteration falls to be made after the first anniversary of the day on which the next list is compiled[13], it has retrospective effect only if it is made in pursuance of a proposal[14].

For these purposes, where the circumstances giving rise to the alteration are the coming into existence of an advertising hereditament[15], those circumstances are treated as occurring[16]: (a) when any structure[17] or sign is erected, after the right constituting the hereditament has been let out or reserved, to enable the right to be exercised[18]; or (b) when any advertisement is exhibited in pursuance of the right[19], whichever is earlier[20]. The erection, dismantling or alteration of any structure or sign for enabling the advertising right to be exercised, after this time[21], is to be treated for the purposes of a proposal, made on the grounds that the rateable value shown in the list for a hereditament is inaccurate by reason of a material change of circumstances which occurred on or after the date of the list's compilation[22], as a material change of circumstances[23].

Where an alteration is made, the list must show the day from which the alteration is to have effect[24]. Before altering an entry in a local non-domestic rating list, the valuation officer must ensure that a record (which need not be in documentary form) is made of the entry[25] and this record must be retained until the expiry of six years beginning on the day on which the next list is compiled[26].

1 For the meaning of 'alteration' for these purposes see para 129 note 4 ante.

2 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 14(1); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 14(1). The provisions set out in heads (1) to (5) in the text are subject to orders made by a tribunal following a decision (see para 160 post): see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 14(1); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 14(1). For these purposes, 'list' means a local non-domestic rating list compiled on or after 1 April 2005: see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 3; and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 3. As to local rating lists see para 121 et seq ante.

3 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 14(2); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 14(2).

Under previous legislation, it was held that a provision specifying that certain alterations to the list were to take effect from the date of the event giving rise to the alteration only applied when that was the sole reason for the alteration, and no other reason: *Cox & Co (Watford) Ltd v Bushey UDC* (1961) 9 RRC 119, [1962] RVR 126. All cases cited in this paragraph were decided prior to the coming into force of the Local Government Finance Act 1988 and, therefore, must now be considered in relation to the non-domestic rating provisions in Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 140 et seq post). As to the historical development of rating law and the continuing relevance of the old case law to the current statutory regime see para 2 ante.

4 For the meaning of 'completion notice' see para 68 note 10 ante.

5 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 14(3); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 14(3). However, where under the Local Government Finance Act 1988 Sch 4A (as added and amended) (see para 65 ante), a different day is substituted by a different notice under Sch 4A para 1(3) (as added and amended) (see para 65 ante) or agreed under Sch 4A para 3 (as added) (see para 68 ante), or determined in pursuance of an appeal under Sch 4A para 4 (as added and amended) (see para 68 ante), the alteration has effect from the day so substituted, agreed or determined: Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 14(4); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 14(4).

6 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 14(5)(a); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 14(5)(a). For these purposes, but in relation to England only, a proposal which is made under the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 8(3)(a) (see para 134 ante) is deemed to have been served on the valuation officer on the day on which the proposal to which the invalidity notice relates was served: reg 14(5A) (added by SI 2006/2312). For the meaning of 'valuation officer' see para 129 note 1 ante. As to valuation officers generally see para 6 ante.

7 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 14(5)(b); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 14(5)(b).

8 For the meaning of 'ratepayer' for these purposes see para 129 note 7 ante.

9 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 14(6)(a); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 14(6)(a).

10 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 14(6)(b); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 14(6)(b).

11 For the meaning of 'hereditament' see para 33 et seq ante. As to rateable value see para 86 et seq ante. As to whether an alteration to correct an inaccuracy in a list increases the rateable value shown in the list for the hereditament to which the inaccuracy relates see *Lamb & Shirley Ltd v Bliss* [2001] EWCA Civ 562, [2001] RA 99, [2001] All ER (D) 44 (Apr) (considering the Non-Domestic Rating (Alteration of Lists and Appeals) Regulations 1993, SI 1993/291, reg 13(8A) (revoked)).

12 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 14(6); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 14(6). As to alterations made to correct an inaccuracy in the list on the day it was compiled see *Thomas's London Day School v Jorgensen (Valuation Officer)* [2005] RA 222, Lands Tribunal.

13 As to the compilation of local rating lists see para 121 ante.

14 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 14(7); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 14(7).

15 For these purposes, 'advertising hereditament' means a hereditament consisting of a right to which the Local Government Finance Act 1988 s 64(2) applies (see para 31 ante); and 'advertising right' means a right which is such a hereditament: Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 15(3); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 15(3).

16 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 15(1); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 15(1).

17 For these purposes, 'structure' includes a hoarding, frame, post or wall: Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 15(3); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 15(3).

18 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 15(1)(a); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 15(1)(a).

19 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 15(1)(b); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 15(1)(b).

20 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 15(1); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 15(1). Such a hereditament must be treated for the purposes of the Local Government Finance Act 1988 Pt III (as amended) (see paras 7 et seq ante, 140 et seq post) as coming into occupation at that time: Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 15(1); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 15(1).

21 Ie after the time mentioned in the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 15(1) or the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 15(1), as the case may be (see the text and notes 15–20 supra): see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 15(2); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 15(2).

22 Ie the ground set out in the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 4(1)(b) or in the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 4(1)(b), as the case may be (see para 130 ante): see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 15(2); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 15(2). For the meaning of 'material change of circumstances' in relation to a hereditament see para 130 note 6 ante.

23 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 15(2); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 15(2).

24 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 16; Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 16.

There is no requirement that alterations to the list must be made within a certain time: *National Car Parks Ltd v Baird (Valuation Officer)* [2004] EWCA Civ 967, [2005] 1 All ER 53, [2004] RA 245; and see para 121 ante.

25 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 41(1); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 41(1).

26 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 41(2); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 41(2).

C. ALTERATION OF CENTRAL NON-DOMESTIC RATING LISTS

140. Relevant hereditaments capable of alteration in the central rating list.

A hereditament[1] (a 'relevant hereditament') which is required[2] to be shown in a central non-domestic rating list[3] compiled on or after 1 April 2005 can be subject to alteration[4] in the central list under the regulations specified in heads (1) to (13) below[5] (which are applicable to local non-domestic rating lists[6]) as if any reference to a local non-domestic rating list were a reference to a central non-domestic rating list[7]; as if any reference to a

valuation officer[8] were a reference to the central valuation officer[9]; and as if any reference to an alteration of a list were a reference to its alteration in relation to a description of hereditaments[10]. The regulations specified for these purposes are those relating to:

(1) the circumstances in which proposals may be made[11];
(2) the periods in which proposals may be made to the 2005 list and subsequent lists[12];
(3) the contents of a proposal[13];
(4) the acknowledgement of proposals by the valuation officer[14];
(5) invalid proposals[15];
(6) the procedure subsequent to the making of proposals[16];
(7) proposals agreed by the valuation officer[17];
(8) the withdrawal of proposals[18];
(9) agreed alterations made following proposals[19];
(10) disagreement as to proposed alterations[20];
(11) the time from which alterations are to have effect in relation to the 2005 and subsequent lists[21];
(12) the effective date to be shown in the list[22]; and
(13) notification of any alteration[23].

Before altering an entry in a central non-domestic rating list, the central valuation officer must ensure that a record (which need not be in documentary form) is made of the entry[24] and this record must be retained until the expiry of six years beginning on the day on which the next list is compiled[25].

1 For the meaning of 'hereditament' see para 33 et seq ante.
2 Ie by regulations under the Local Government Finance Act 1988 s 53 (as amended) (see para 126 ante): see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 18(1); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 18(1).
3 As to central non-domestic rating lists see para 125 et seq ante.
4 For the meaning of 'alteration' for these purposes see para 129 note 4 ante; definition applied by the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 18(1); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 18(1).
5 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 18(1); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 18(1). The regulations so specified apply as modified by the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 18(3)–(5) or the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 18(3)–(5), as the case may be (see notes 11, 15, 20, 23 infra): see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 18(1); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 18(1).
6 As to local non-domestic rating lists see para 121 et seq ante.
7 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 18(1)(a); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 18(1)(a).
8 For the meaning of 'valuation officer' see para 129 note 1 ante. As to valuation officers generally see para 6 ante.
9 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 18(1)(b); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 18(1)(b). As to the central valuation officer see para 6 ante.
10 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 18(1)(c); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 18(1)(c).
11 Ie the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 4 (as amended) (except reg 4(1)(k), (1)(l), (3)) and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 4 (except reg 4(1)(k), (1)(l), (3)), as the case may be

(see para 130 ante): Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 18(2)(a); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 18(2)(a). It is further specified that the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 4(1)(o) or the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 4(1)(o), as the case may be, applies as if the reference to the Local Government Finance Act 1988 s 42 (as amended) (para 123 ante) were a reference to s 53 (as amended) (see paras 126–127 ante): Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 18(3); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 18(3).

12 Ie the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 5 (as amended) and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 5, as the case may be (see para 131 ante): Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 18(2)(b); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 18(2)(b).

13 Ie the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 6 (as amended) and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 6, as the case may be (see para 132 ante): Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 18(2)(b); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 18(2)(b).

14 Ie the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 7 and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 7, as the case may be (see para 133 ante): Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 18(2)(b); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 18(2)(b).

15 Ie the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 8 (as amended) and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 8 (as amended), as the case may be (see para 134 ante): Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 18(2)(b); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 18(2)(b). It is further specified that the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 8 (as amended) or the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 8 (as amended), as the case may be, applies as if references to a relevant valuation tribunal were to the valuation tribunal established by regulations under the Local Government Finance Act 1988 s 136, Sch 11 (Sch 11 as amended) (see para 147 et seq post) for the area in which the designated person has its principal place of business within England and Wales: Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 18(5); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 18(5). For these purposes, the 'designated person' means the person designated by regulations under the Local Government Finance Act 1988 s 53 (as amended) (see para 126 ante) in relation to the description of hereditaments which includes the relevant hereditament to which the alteration or proposed alteration relates: Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 18(7); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 18(7). For the meanings of 'relevant valuation tribunal' and 'valuation tribunal' see para 129 note 8 ante. For the meanings of 'England' and 'Wales' see para 1 note 2 ante.

16 Ie the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 9 (except reg 9(1)(b)) and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 9 (except reg 9(1)(b)), as the case may be (see para 135 ante): Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 18(2)(b); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 18(2)(b). At the same time as the central valuation officer serves a copy of a proposal on the ratepayer under the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 9(1) or the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 9(1), as the case may be, in relation to a relevant hereditament he must serve such a copy on the Secretary of State or the Welsh Ministers, as the case may be: Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 18(6); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 18(6). As to the Secretary of State and the Welsh Ministers see para 3 ante.

17 Ie the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 10 and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 10, as the case may be (see para 135 ante): Non-Domestic Rating (Alteration of Lists

and Appeals) (England) Regulations 2005, SI 2005/659, reg 18(2)(b); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 18(2)(b).

18 Ie the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 11 and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 11, as the case may be (see para 136 ante): Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 18(2)(b); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 18(2)(b).

19 Ie the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 12 and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 12, as the case may be (see para 137 ante): Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 18(2)(b); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 18(2)(b).

20 Ie the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 13 and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 13 (as amended), as the case may be (see para 138 ante): Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 18(2)(b); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 18(2)(b). It is further specified that the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 13 or the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 13 (as amended), as the case may be, applies as if references to a relevant valuation tribunal were to the valuation tribunal established by regulations under the Local Government Finance Act 1988 s 136, Sch 11 (Sch 11 as amended) (see para 147 et seq post) for the area in which the designated person has its principal place of business within England and Wales: Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 18(5); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 18(5).

21 Ie the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 14 (as amended) (except reg 14(3), (4) and the corresponding references in reg 14(2)) and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 14 (except reg 14(3), (4) and the corresponding references in reg 14(2)), as the case may be (see para 139 ante): Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 18(2)(c); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 18(2)(c).

22 Ie the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 16 and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 16, as the case may be (see para 139 ante): Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 18(2)(d); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 18(2)(d).

23 Ie the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 17 (except reg 17(3)(b)) and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 17 (except reg 17(3)(b)), as the case may be (see para 129 ante): Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 18(2)(d); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 18(2)(d). It is further specified that the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 17(1) or the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 17(1), as the case may be, applies as if the reference to the relevant authority (and its principal office) were a reference to the Secretary of State or the Welsh Ministers (and his or their principal office), as the case may be: Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 18(4); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 18(4).

24 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 41(1); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 41(1).

25 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 41(2); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 41(2).

(vi) Information, etc Powers Relating to Lists

141. Request for information. A valuation officer[1] may serve a notice[2] on a person who is an owner or occupier of a hereditament requesting him to supply information specified in the notice to the officer, which the officer reasonably believes

will assist him in carrying out functions conferred or imposed on him by or under the non-domestic rating provisions[3]. The notice must contain a statement of that officer's belief[4]. A person on whom a notice is so served must supply the information requested in such form and manner as is specified in the notice[5].

If a person on whom a notice is so served fails to comply with the request for information[6] within the period of 56 days beginning with the day on which the notice is served, he is liable to a penalty of £100[7] and the valuation officer must serve on him a notice (a 'penalty notice') stating (amongst other things) that he is so liable[8]. If the person on whom a penalty notice is served then fails to comply with the request for information[9] within the period of 21 days beginning with the day on which the penalty notice is served, he is liable to a further penalty of £100, and[10] to a further penalty of £20 for each day in respect of which the failure continues after the end of that period[11]. However, a valuation officer may mitigate or remit any penalty so imposed[12].

If a person is aggrieved by the imposition on him of any penalty for a failure to comply with a request for information[13], he may appeal to a valuation tribunal[14] so long as the appeal is made before the end of the period of 28 days beginning with the day on which the penalty notice is served[15]. An appeal against imposition of a penalty is initiated by serving on the clerk[16] a notice in writing (a 'notice of appeal') accompanied by a copy of the penalty notice[17], a statement of the grounds on which the appeal is made[18], and the date of service of the notice of the imposition of a penalty[19]. The clerk must, within two weeks of service of the notice of appeal, notify the appellant[20] that the clerk has received it, and serve a copy of it on the valuation officer whose notice is the subject of the appeal[21].

On such an appeal, the valuation tribunal may mitigate or remit any penalty imposed[22] if it is satisfied on either or both of the following specified grounds[23], namely: (1) that the appellant had a reasonable excuse for not complying with the request for information[24]; or (2) that the information requested is not in the possession or control of the appellant[25].

Any penalty imposed for a failure to comply with a request for information[26] may be recovered by the valuation officer concerned as a civil debt due to him[27].

If a person[28], in supplying information in purported compliance with a request for information from a valuation officer[29], either makes a statement which he knows[30] to be false in a material particular, or recklessly[31] makes such a statement, he is liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding level 3 on the standard scale[32] or to both[33].

1 As to valuation officers see para 6 ante.

2 The Secretary of State, in relation to England, and the Welsh Ministers, in relation to Wales, may by regulations make provision in relation to notices served under the Local Government Finance Act 1988 s 62, Sch 9 para 5 (as amended) or under Sch 9 para 5A (as added) (see the text and notes 6–11 infra): Sch 9 para 5F(1) (Sch 9 paras 5A–5H added by the Local Government Act 2003 s 72(1), (4)). The provision that may be made by such regulations includes provision enabling a valuation officer to request or obtain information for the purpose of identifying the owner or occupier of a hereditament, and provision enabling a notice to be served on a person either by name or by such description as may be prescribed: Local Government Finance Act 1988 Sch 9 para 5F(2) (as so added). 'Prescribed' in the context of regulations, means prescribed by the regulations: s 146(6). As to the Secretary of State and the Welsh Ministers, and as to the making of regulations under the Local Government Finance Act 1988 generally, see para 3 ante. At the date at which this volume states the law, no such regulations had been made under Sch 9 para 5F (as added). For the meanings of 'England' and 'Wales' see para 1 note 2 ante. For the meaning of 'hereditament' see para 33 et seq ante; and for the meaning of 'owner' see para 13 ante. As to occupiers see para 13 et seq ante.

Where a valuation officer requires the name or address of a person on whom a notice under Sch 9 para 5 (as amended) or under Sch 9 para 5A (as added) is to be served, he may serve a notice on a billing authority which he reasonably believes may have that information requesting the authority to supply him with that information: Sch 9 para 5H (as so added). As to billing authorities see para 5 ante.

3 Ibid Sch 9 para 5(1) (amended by the Local Government and Housing Act 1989 s 139, Sch 5 paras 1, 46, 79(3)). The text refers to the non-domestic rating provisions contained in the Local Government Finance Act 1988 Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 142 et seq post): see Sch 9 para 5(1) (as so amended).

4 Ibid Sch 9 para 5(1A) (added by the Local Government and Housing Act 1989 Sch 5 paras 1, 46, 79(3)).

5 Local Government Finance Act 1988 Sch 9 para 5(2) (amended by the Local Government and Housing Act 1989 Sch 5 paras 1, 46, 79(3); and the Local Government Act 2003 ss 72(1), (2), 127(2), Sch 8 Pt 1).

6 Ie fails to comply with the Local Government Finance Act 1988 Sch 9 para 5(2) (as amended) (see the text and note 5 supra): see Sch 9 para 5A(1) (as added: see note 2 supra).

7 Ibid Sch 9 para 5A(1) (as added: see note 2 supra). Any sums received by a valuation officer by way of penalty under Sch 9 para 5A (as added) must be paid into the Consolidated Fund: Sch 9 para 5E (as so added). As to the Consolidated Fund see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) para 711 et seq; PARLIAMENT vol 34 (Reissue) paras 952–955.

The Secretary of State, in relation to England, and the Welsh Ministers, in relation to Wales, may by order amend Sch 9 para 5A (as added) to increase or decrease the amount of any penalty under Sch 9 para 5A (as added): Sch 9 para 5G (as so added). The power of the Secretary of State to make an order under Sch 9 para 5G (as added) is exercisable by statutory instrument, but no such order is to be made by him unless a draft of it has been laid before and approved by resolution of each House of Parliament: s 143(9AA) (added by the Local Government Act 2003 s 127(1), Sch 7 paras 9(1), 24(1), (5)). As to the making of subordinate legislation by the Welsh Ministers under the Local Government Finance Act 1988 see para 3 note 15 ante. At the date at which this volume states the law, no such order had been made.

8 See the Local Government Finance Act 1988 Sch 9 para 5A(2) (as added: see note 2 supra). The notice ('penalty notice') referred to in the text must state:

(1) that the person on whom it is served has failed to comply with Sch 9 para 5(2) (as amended) (see the text and note 5 supra) within the period mentioned in Sch 9 para 5A(1) (as added) (see the text and notes 6–7 supra) (Sch 9 para 5A(2)(a) (as so added));

(2) that he is liable to a penalty of £100 (Sch 9 para 5A(2)(b) (as so added));

(3) the effect of a failure to comply with a penalty notice (i e the effect of Sch 9 para 5A(3), (4) (as added) (see the text and notes 9–11 infra) (Sch 9 para 5A(2)(c) (as so added)); and

(4) that he has a right of appeal under Sch 9 para 5C (as added) (see the text and notes 13–25 infra) (Sch 9 para 5A(2)(d) (as so added)).

As to notices served under Sch 9 para 5A (as added) see note 2 supra; and as to penalties under Sch 9 para 5A (as added) see note 7 supra.

9 Ie under ibid Sch 9 para 5(2) (as amended) (see the text and note 5 supra): see Sch 9 para 5A(3) (as added: see note 2 supra).

10 Ie subject to ibid Sch 9 para 5A(4) (as added): see Sch 9 para 5A(3) (as added: see note 2 supra). The amount to which a person is liable under Sch 9 para 5A (as added) in respect of a failure to comply with a notice served under Sch 9 para 5 (as amended) (see the text and notes 1–5 supra) must not exceed whichever is the greater of the rateable value of the hereditament concerned for the day on which the penalty notice is served and £500: Sch 9 para 5A(4) (as so added). For these purposes, the hereditament concerned is the hereditament in respect of which the notice under Sch 9 para 5 (as amended) was served, and a list compiled under Pt III (as amended) (see paras 7 et seq ante, 142 et seq post) must be used to find the rateable value of the hereditament for the day concerned: Sch 9 para 5A(5) (as so added). As to penalties under Sch 9 para 5A (as added) see note 7 supra.

11 Ibid Sch 9 para 5A(3) (as added: see note 2 supra). As to penalties under Sch 9 para 5A (as added) see note 7 supra.

12 Ibid Sch 9 para 5B (as added: see note 2 supra). The text refers to any penalty imposed under Sch 9 para 5A (as added) (see the text and notes 6–11 supra): see Sch 9 para 5B (as so added).

13 Ie a penalty imposed under ibid Sch 9 para 5A (as added) (see the text and notes 6–11 supra): see Sch 9 para 5C(1) (as added: see note 2 supra).

14 Ibid Sch 9 para 5C(1) (as added: see note 2 supra). An appeal under Sch 9 para 5C (as added) is to be treated as an appeal against the penalty imposed under Sch 9 para 5A(1) (as added) (see the text and notes 6–7 supra) and any further penalty which may be imposed under Sch 9 para 5A(3) (as added) (see the text and notes 9–11 supra): Sch 9 para 5C(4) (as so added). However, an appeal under Sch 9 para 5C (as added) does not prevent liability to any further penalty or penalties arising under Sch 9 para 5A(3) (as added): Sch 9 para 5C(3) (as so added). As to appeals to a valuation tribunal generally see para 147 et seq post.

15 Ibid Sch 9 para 5C(2) (as added: see note 2 supra).

16 'Clerk', in relation to an appeal, means the clerk of the relevant valuation tribunal: Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 2(1); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 2(1). For the meanings of 'relevant valuation tribunal' and 'valuation tribunal' see para 129 note 8 ante. As to the service of notices generally for these purposes see para 129 notes 2, 7 ante.

17 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 20(1)(a); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 20(1)(a).

18 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 20(1)(b); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 20(1)(b).

19 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 20(1)(b); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 20(1)(c).

20 Any reference in the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659 (as amended) or in the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, (as amended), as the case may be, to a party to an appeal includes the person making the appeal (the 'appellant') and, in relation to an appeal against imposition of a penalty, the valuation officer or, as the case may be, the central valuation officer: Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 2(3)(a); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 2(3)(a). For the meaning of 'valuation officer' for these purposes see para 129 note 1 ante. As to valuation officers generally see para 6 ante.

21 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 20(2); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 20(2).

22 Ie a penalty under the Local Government Finance Act 1988 Sch 9 para 5A (as added) (see the text and notes 6–11 supra): see Sch 9 para 5C(5) (as added: see note 2 supra).

23 Ibid Sch 9 para 5C(5) (as added: see note 2 supra).

24 Ibid Sch 9 para 5C(6)(a) (as added: see note 2 supra). The text refers to non-compliance with Sch 9 para 5(2) (as amended) (see the text and note 5 supra): see Sch 9 para 5C(6)(a) (as so added).

What is a reasonable excuse is largely a question of fact: *Leck v Epsom RDC* [1922] 1 KB 383. Ignorance of the statutory provisions provides no reasonable excuse (*Aldridge v Warwickshire Coal Co Ltd* (1925) 133 LT 439), nor does a mistaken view of the provisions (*R v Philip Reid* [1973] 3 All ER 1020, [1973] 1 WLR 1283, CA). As to whether reliance upon the advice of an expert can be a reasonable excuse see *Saddleworth UDC v Aggregate and Sand Ltd* (1970) 69 LGR 103.

The cases cited in this paragraph were decided prior to the coming into force of the Local Government Finance Act 1988 and, therefore, must now be considered in relation to the non-domestic rating provisions in Pt III (as amended) (see paras 7 et seq ante, 142 et seq post). As to the historical development of rating law and the continuing relevance of the old case law to the current statutory regime see para 2 ante.

25 Ibid Sch 9 para 5C(6)(b) (as added: see note 2 supra).

26 Ie any penalty imposed under ibid Sch 9 para 5A (as added) (see the text and notes 6–11 supra): see Sch 9 para 5D(1) (as added: see note 2 supra).

27 Ibid Sch 9 para 5D(1) (as added: see note 2 supra). However, no claim to recover any such penalty may be made either before the end of the period mentioned in Sch 9 para 5C(2) (as added) (see the text and note 15 supra) or, if an appeal is made under Sch 9 para 5C (as added) (see the text and notes 13–25 supra), before the appeal is finally disposed of: Sch 9 para 5D(2) (as so added).

28 Ie a person on whom a notice has been served under ibid Sch 9 para 5 (as amended) (see the text and notes 1–5 supra): see Sch 9 para 5(4).

29 Ie in purported compliance with ibid Sch 9 para 5(2) (as amended) (see the text and note 5 supra): see Sch 9 para 5(4).

30 Knowledge must be proved by the prosecution: *Gaumont British Distributors Ltd* v *Henry* [1939] 2 KB 711.

31 As to recklessness in criminal law see CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(1) (2006 Reissue) para 11.

32 As to the standard scale see para 70 note 11 ante.

33 Local Government Finance Act 1988 Sch 9 para 5(4).

142. Information from billing authorities. If, in the course of the exercise of its functions, any information[1] comes to the notice of a billing authority[2] which leads it to suppose that a list[3] requires alteration, it is the billing authority's duty to inform the valuation officer[4] responsible for maintaining the list[5]. The Secretary of State (or the Welsh Ministers, as the case may be)[6] may make regulations containing provision as to what times and in what manner billing authorities must supply the valuation officer with such information as may be prescribed[7]. Accordingly, for these purposes[8], a relevant billing authority[9] is required to supply information of the description set out in heads (1)

to (4) below in relation to any non-domestic property in its area which is, in its opinion, property which is or may become liable to a rate and in relation to which there is no entry in the local rating list, or in relation to which, in its opinion, any entry in such a list requires to be altered[10]. The information to be so supplied is:

(1) the address of the property[11];
(2) the nature of the event by reason of which, in the opinion of the relevant authority, the local non-domestic rating list is required to be altered[12];
(3) the day from which, in the opinion of the relevant authority, such alteration should have effect[13]; and
(4) if the property is shown in a local non-domestic rating list, any reference number ascribed to it in that list[14].

The information so required must be supplied as soon as is reasonably practicable after it comes to the attention of the relevant authority[15].

Where such regulations[16] impose a duty on a billing authority to supply information to any person, they may also require:

(a) the Secretary of State (or the Welsh Ministers, as the case may be)[17];
(b) any appropriate precepting authority[18]; or
(c) any appropriate levying body[19],

to supply the billing authority with prescribed information if the Secretary of State (or the Welsh Ministers, as the case may be) considers it to be information the billing authority needs in order to fulfil its duty[20]. Where any person other than the Secretary of State (or the Welsh Ministers, as the case may be) fails to supply information to a billing authority in accordance with regulations so made, he is liable to indemnify the authority against any loss or damage which the authority sustains in consequence of the failure[21].

1 As to the meaning of 'information' for these purposes see para 34 note 13 ante.
2 As to billing authorities see para 5 ante.
3 Ie a local non-domestic rating list: see the Local Government Finance Act 1988 s 67(1). As to the compilation of local non-domestic rating lists see para 121 ante.
4 As to valuation officers see para 6 ante.
5 Local Government Finance Act 1988 s 62, Sch 9 para 6(1) (amended by the Local Government Finance Act 1992 s 117(1), Sch 13 para 87(4)). As to alterations to local non-domestic rating lists by the valuation officer see paras 130–139 ante.
6 As to the Secretary of State and the Welsh Ministers see para 3 ante.
7 See the Local Government Finance Act 1988 Sch 9 para 6(1A) (added by the Local Government and Housing Act 1989 ss 139, 194(4), Sch 5 paras 1, 47, 79(3), Sch 12 Pt II; amended by the Local Government Finance Act 1992 Sch 13 para 87(4)). 'Prescribed' in the context of regulations, means prescribed by the regulations: Local Government Finance Act 1988 s 146(6). As to the regulations made under Sch 9 para 6(1A) (as added and amended) see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659 (as amended); the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758 (as amended); the text and notes 8–15 infra. As to the making of regulations under the Local Government Finance Act 1988 generally see para 3 ante.
8 Ie for the purposes of the Local Government Finance Act 1988 Sch 9 para 6(1A) (as added) (see the text and notes 6–7 supra): see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 42(1); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 42(1).
9 For these purposes, 'relevant authority', in relation to a hereditament, means the authority in whose area the hereditament is situated, where 'authority' means a billing authority: Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 2(1); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 2(1).
10 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 42(3); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 42(3).
11 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 42(1), (2)(a); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 42(1), (2)(a).

12 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 42(1), (2)(b); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 42(1), (2)(b).

13 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 42(1), (2)(c); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 42(1), (2)(c).

14 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 42(1), (2)(d); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 42(1), (2)(d).

15 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 42(4); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 42(4).

16 Ie regulations under the Local Government Finance Act 1988 Sch 9 (as added and amended): see Sch 9 para 6A(1)(a) (as added: see note 17 infra).

17 Local Government Finance Act 1988 Sch 9 para 6A(1)(a) (Sch 9 para 6A added by the Local Government Finance Act 1992 Sch 13 para 87(5)).

18 Local Government Finance Act 1988 Sch 9 para 6A(1)(b) (as added: see note 17 supra). For these purposes, an authority is an appropriate precepting authority in relation to a billing authority if it has power to issue a precept to the billing authority under the Local Government Finance Act 1992 Pt I (ss 1–69) (as amended) (see para 227 et seq post): Local Government Finance Act 1988 Sch 9 para 6A(4) (as so added). As to precepts see para 1 ante.

19 Ibid Sch 9 para 6A(1)(c) (as added: see note 17 supra). For these purposes, a body is an appropriate levying body in relation to a billing authority if it has power to issue a levy or special levy to the billing authority or if it has power to issue a levy to a county council which has power to issue a precept to the billing authority under the Local Government Finance Act 1992 Pt I (as amended) (see para 227 et seq post): Local Government Finance Act 1988 Sch 9 para 6A(5) (as so added). A levy (unless the context otherwise requires) is a levy under regulations made under s 74 (as amended) (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 530) and a levying body is a body with power to issue a levy under those regulations: s 146(2). A special levy is a special levy under regulations made under s 75 (as amended) (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 530): s 146(3).

20 Ibid Sch 9 para 6A(1) (as added: see note 17 supra). Similarly, where regulations under Sch 9 (as added and amended) contain provision about the contents or form of a notice to be served by a billing authority, they may also require the Secretary of State (or the Welsh Ministers, as the case may be) or any appropriate precepting authority to supply the billing authority with prescribed information if the Secretary of State (or the Welsh Ministers) considers it to be information the billing authority needs to ensure that the provision is met: Sch 9 para 6A(2) (as so added).

As to the regulations made under Sch 9 para 6A (as added) see the Non-Domestic Rating (Demand Notices) (Wales) Regulations 1993, SI 1993/252 (as amended); the Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003, SI 2003/2613 (as amended); and para 170 et seq post.

21 Local Government Finance Act 1988 Sch 9 para 6A(3) (as added: see note 17 supra).

143. Power of entry. If a valuation officer[1] needs to value a hereditament[2] for the purpose of carrying out functions conferred or imposed on him by or under the non-domestic rating provisions[3], he (and any person authorised by him in writing) may enter on, survey and value the hereditament, provided that[4]: (1) at least 24 hours' notice in writing of the proposed exercise of the power is given[5]; and (2) in a case where anyone authorised by the valuation officer proposes to exercise the power, that person produces his authority where required[6]. If a person wilfully delays or obstructs[7] a person in the exercise of the power of entry, he is liable on summary conviction to a fine not exceeding level 1 on the standard scale[8].

1 As to valuation officers see para 6 ante.

2 For the meaning of 'hereditament' see para 33 et seq ante.

3 Ie by or under the Local Government Finance Act 1988 Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 144 et seq post): see s 62, Sch 9 para 7(1).

4 Ibid Sch 9 para 7(1).

5 Ibid Sch 9 para 7(2).

6 Ibid Sch 9 para 7(3).

7 An act is done wilfully if it is deliberate and intentional, so that the mind of the person who does the act goes with it: *R v Senior* [1899] 1 QB 283. Anything which makes it more difficult for a person to carry out his duty might amount to obstruction: *Hinchcliffe v Sheldon* [1955] 3 All ER 406, [1955] 1 WLR 1207.

8 Local Government Finance Act 1988 Sch 9 para 7(4). As to the standard scale see para 70 note 11 ante.

144. Inspection of documents regarding state of lists. Where a valuation officer[1] is maintaining a local rating list[2], and the list is in force or has been in force at any time in the preceding five years, a person may require that officer to give him access to such information[3] as will enable him to establish the current or previous state of the list[4]. Similar provisions apply in respect of local rating lists deposited by billing authorities[5] and in respect of central rating lists[6] deposited by the Secretary of State (or by the Welsh Ministers, as the case may be)[7] for lists which are in force[8], or yet to come into force[9]. These requirements[10] must be complied with at a reasonable time and place and without payment being sought; but the information may be in documentary or such other form as the person or authority giving the information thinks fit[11].

Where access is given to information in documentary form, the person to whom access is given may make copies of (or extracts from) the document[12], or may require a person having custody of the document to supply him a photographic copy of (or extracts from) the document[13]. Where access is given to information in a non-documentary form, the person to whom access is given may make transcripts of (or extracts from) the information[14], or may require a person having control of access to the information to supply him a copy in documentary form of (or of extracts from) the information[15]. A reasonable charge may be required for such copying or transcribing[16] of the information[17].

Anyone having custody of a document containing (or having control of access to) information to which access is sought, who without reasonable excuse[18] intentionally obstructs a person exercising a right to inspection[19] or refuses to comply with a requirement to permit copying of information[20], is liable on summary conviction to a fine not exceeding level 1 on the standard scale[21].

1 As to valuation officers see para 6 ante.

2 As to local non-domestic rating lists see para 121 et seq ante.

3 As to the meaning of 'information' for these purposes see para 34 note 13 ante.

4 See the Local Government Finance Act 1988 s 62, Sch 9 para 8(1) (Sch 9 para 8 substituted by the Local Government and Housing Act 1989 s 139, Sch 5 paras 48, 79(3)).

5 As to billing authorities see para 5 ante.

6 As to central non-domestic rating lists see para 125 et seq ante.

7 As to the Secretary of State and the Welsh Ministers see para 3 ante.

8 In relation to billing authorities see the Local Government Finance Act 1988 Sch 9 para 8(2) (as substituted (see note 4 supra); amended by the Local Government Finance Act 1992 s 117(1), Sch 13 para 87(6); and the Local Government (Wales) Act 1994 s 66(6), Sch 16 para 86). As to the deposit of local non-domestic rating lists by billing authorities see paras 121, 122 ante. In relation to the Secretary of State (or the Welsh Ministers, as the case may be) see the Local Government Finance Act 1988 Sch 9 para 8(3) (as so substituted). As to the deposit of central non-domestic rating lists by the Secretary of State (or the Welsh Ministers) see para 125 ante.

9 In relation to proposed local rating lists deposited by billing authorities see ibid Sch 9 para 8(4) (as substituted (see note 4 supra); amended by the Local Government Finance Act 1992 Sch 13 para 87(6)); and in relation to proposed central rating lists deposited by the Secretary of State (or the Welsh Ministers, as the case may be) see the Local Government Finance Act 1988 Sch 9 para 8(5) (as so substituted).

10 Ie a requirement under any of ibid Sch 9 para 8(1)–(5) (as substituted and amended) (see the text and notes 1–9 supra): see Sch 9 para 8(6) (as substituted: see note 4 supra).

11 Ibid Sch 9 para 8(6) (as substituted: see note 4 supra).

12 Ibid Sch 9 para 8(7)(a) (as substituted: see note 4 supra).

13 Ibid Sch 9 para 8(7)(b) (as substituted: see note 4 supra).

14 Ibid Sch 9 para 8(8)(a) (as substituted: see note 4 supra).

15 Ibid Sch 9 para 8(8)(b) (as substituted: see note 4 supra).

16 Ie under ibid Sch 9 para 8(7) (as substituted) (see the text and notes 12–13 supra) or Sch 9 para 8(8) (as substituted) (see the text and notes 14–15 supra): see Sch 9 para 8(9) (as substituted: see note 4 supra).
17 See ibid Sch 9 para 8(9) (as substituted: see note 4 supra).
18 As to what may be regarded as reasonable excuse see para 141 note 24 ante.
19 Ie a right under the Local Government Finance Act 1988 Sch 9 para 8(1)–(5) (as substituted) (see the text and notes 1–9 supra), Sch 9 para 8(7)(a) (as substituted) (see the text and note 12 supra) or Sch 9 para 8(8)(a) (as substituted) (see the text and note 14 supra): see Sch 9 para 8(10) (as substituted: see note 4 supra).
20 Ie under ibid Sch 9 para 8(7)(b) (as substituted) (see the text and note 13 supra) or Sch 9 para 8(8)(b) (as substituted) (see the text and note 15 supra): see Sch 9 para 8(10) (as substituted: see note 4 supra).
21 Ibid Sch 9 para 8(10) (as substituted: see note 4 supra). As to the standard scale see para 70 note 11 ante.

145. Inspection of documents relating to list alterations. A person may, at a reasonable time and without making payment, inspect any proposal made or notice of appeal given under regulations made in relation to the alteration of lists[1], if made or given as regards a list which is in force when inspection is sought or has been in force at any time in the preceding five years[2]. A person may make copies of (or of extracts from) any such document[3] or may require a person having custody of such a document to supply to him a photographic copy of (or of extracts from) the document[4].

If, without reasonable excuse[5], a person having custody of any such proposal or notice of appeal[6] either intentionally obstructs a person in exercising a right to inspect without charge[7] or to copy[8] such a document[9], or refuses to supply a copy to a person who is entitled to it[10], he is liable on summary conviction to a fine not exceeding level 1 on the standard scale[11].

1 Ie regulations made under the Local Government Finance Act 1988 s 55 (as amended) (see para 128 ante) in relation to lists compiled under Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 146 et seq post): see s 62, Sch 9 para 9(1) (as added: see note 2 infra). As to local non-domestic rating lists see para 121 et seq ante; and as to central non-domestic rating lists see para 125 et seq ante.
2 Ibid Sch 9 para 9(1) (Sch 9 para 9 added by the Local Government and Housing Act 1989 s 139, Sch 5 paras 48, 79(3)).
3 Local Government Finance Act 1988 Sch 9 para 9(2)(a) (as added: see note 2 supra). If a reasonable charge is required for a facility under Sch 9 para 9(2) (as added), then Sch 9 para 9(2) (as added) is not to apply unless the person seeking to avail himself of the facility pays the charge: Sch 9 para 9(3) (as so added).
4 Ibid Sch 9 para 9(2)(b) (as added: see note 2 supra). See note 3 supra.
5 As to what may be regarded as reasonable excuse see para 141 note 24 ante.
6 Ie custody of a document mentioned in the Local Government Finance Act 1988 Sch 9 para 9(1) (as added) (see the text and notes 1–2 supra): see Sch 9 para 9(4) (as added: see note 2 supra).
7 Ie a right under ibid Sch 9 para 9(1) (as added) (see the text and notes 1–2 supra): see Sch 9 para 9(4)(a) (as added: see note 2 supra).
8 Ie a right under ibid Sch 9 para 9(2)(a) (as added) (see the text and note 3 supra): see Sch 9 para 9(4)(a) (as added: see note 2 supra).
9 Ibid Sch 9 para 9(4)(a) (as added: see note 2 supra).
10 Ibid Sch 9 para 9(4)(b) (as added: see note 2 supra). The text refers to entitlement under Sch 9 para 9(2)(b) (as added) (see the text and note 4 supra): see Sch 9 para 9(4)(b) (as so added).
11 Ibid Sch 9 para 9(4) (as added: see note 2 supra). As to the standard scale see para 70 note 11 ante.

(vii) Validity of Lists

146. Challenges to the validity of valuation lists. Under previous legislation[1], the validity of valuation lists was open to challenge by an application for judicial review[2]. The whole list can be challenged in this way, provided the applicant for review has sufficient interest in the matter[3]. Individual entries may also be challenged in this way where there is no other remedy available[4]. There is nothing in the current legislation which acts as a bar to an application for judicial review.

1 Ie under the General Rate Act 1967 (repealed). As to the historical development of rating law and the continuing relevance of the old case law to the current statutory regime see para 2 ante.

2 *R v Paddington Valuation Officer, ex p Peachey Property Corpn Ltd* [1966] 1 QB 380, [1965] 2 All ER 836, CA.
3 As to the procedure for judicial review see ADMINISTRATIVE LAW vol 1(1) (2001 Reissue) paras 69 et seq, 159 et seq.
4 *R v Valuation Officer, ex p High Park Investments Ltd* [1987] RVR 84.

(viii) Valuation List Appeals

A. VALUATION TRIBUNALS

147. Establishment of valuation tribunals. Valuation tribunals are established in accordance with regulations made by the Secretary of State (or the Welsh Ministers, as the case may be)[1]. Such regulations may include such provisions as the Secretary of State sees fit, so far as relating to England[2], in relation to membership, procedure and other matters relating to tribunals, except staff, accommodation and equipment[3]; and such regulations may include such provisions as the Welsh Ministers see fit, so far as relating to Wales[4], in relation to membership, staff, accommodation, equipment, procedure and other matters relating to tribunals[5]. Regulations make different provision for cases where valuation tribunals exercise jurisdiction conferred on them by or under different provisions of the Local Government Finance Act 1988 or the Local Government Finance Act 1992[6]. Valuation tribunals were established on 1 May 1989[7] for a number of specified areas in England and the Isles of Scilly[8]. New valuation tribunals were established in Wales on 1 April 1996[9].

A valuation tribunal is not a court to which the law of contempt of court applies[10].

1 See the Local Government Finance Act 1988 s 136, Sch 11 para 1(1) (amended by the Local Government Finance Act 1992 s 117(1), Sch 13 para 88(1), (3), (13)). As to the Secretary of State and the Welsh Ministers see para 3 ante. As to regulations made under the Local Government Finance Act 1988 generally see para 3 ante. As to the regulations made under the Local Government Finance Act 1988 Sch 11 para 1 (as amended) see the Valuation and Community Charge Tribunal Regulations 1989, SI 1989/439 (amended by SI 1990/582 (revoked); SI 1991/1; SI 1991/210; SI 1991/1189; SI 1992/1529; SI 1993/292; SI 1993/615; SI 1995/363; SI 1995/3056; SI 1996/43; SI 1997/75; SI 1997/2954; and in relation to England only by SI 2000/409; SI 2004/482; and in relation to Wales only by SI 2005/758; SI 2005/3302) (cited in notes 7–9 infra; and para 148 et seq post); the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659 (amended by SI 2006/2312) (cited in paras 68, 128 et seq ante); the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758 (amended by SI 2006/1035) (cited in paras 68, 128 et seq ante); and the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364 (cited in notes 7–9 infra; and para 148 et seq post).

As from a day to be appointed under the Local Government and Public Involvement in Health Act 2007 s 245(5), the Local Government Finance Act 1988 Sch 11 para 1(1) (as amended) is further amended so that it refers to the establishment of one or more tribunals in relation to Wales only: see Sch 11 para 1(1) (as so amended; prospectively further amended by the Local Government and Public Involvement in Health Act 2007 s 219(1), Sch 15 paras 1, 4(a)). At the same time, the Local Government Finance Act 1988 Sch 11 paras 1–8 (as amended) will be organised under the heading 'Sch 11 Pt 2 (Valuation Tribunals: Wales)' (see the heading prospectively added by the Local Government and Public Involvement in Health Act 2007 Sch 15 paras 1, 3) and, in the Local Government Finance Act 1988 Sch 11 Pt 2 (as prospectively renumbered), references to a tribunal will be references to any tribunal established in relation to Wales by regulations under Sch 1 para 1 (as amended; prospectively further amended) (see Sch 11 para 1A (prospectively added by the Local Government and Public Involvement in Health Act 2007 Sch 15 paras 1, 5)). However, at the date at which this volume states the law, no such day had been appointed.

As from a day to be appointed under the Local Government and Public Involvement in Health Act 2007 s 245(5), the Local Government Finance Act 1988 Sch 11 Pt 1 (paras A1–A20) (the Valuation Tribunal for England) is added by the Local Government and Public Involvement in Health Act 2007 Sch 15 paras 1, 2 in order to make provision for Valuation Tribunals in relation to England that will reflect and accommodate the new provision that is being made in relation to Wales. Further consequential amendments are made to the Local Government Finance Act 1988 Sch 11 (as amended): see Sch 11 (as

so amended; prospectively further amended by the Local Government and Public Involvement in Health Act 2007 Sch 15 paras 1, 3, 4(b), (c), 6–19, Sch 18 Pt 17). However, at the date at which this volume states the law, no such day had been appointed.

2 For the meaning of 'England' see para 1 note 2 ante.

3 Local Government Finance Act 1988 Sch 11 para 1(2)(a) (substituted by the Local Government Act 2003 s 127(1), Sch 7 paras 9(1), 27(a)).

For these purposes, regulations under the Local Government Finance Act 1988 Sch 11 para 1 (as amended) may include provision relating to:

(1) membership (see Sch 11 para 5 (amended by the Local Government Finance Act 1992 Sch 13 para 88(1), (3), (13)));
(2) the procedure for determining an appeal (see the Local Government Finance Act 1988 Sch 11 para 8 (amended by the Local Government Finance Act 1992 Sch 13 para 86(6), (7); and the Non-Domestic Rating (Information) Act 1996 s 1(3)));
(3) the making of orders (see the Local Government Finance Act 1988 Sch 11 paras 9, 10, 10A (Sch 11 paras 9, 10 amended, and para 10A added, by the Local Government Finance Act 1992 Sch 13 para 88));
(4) appeals in respect of a tribunal order or decision (see the Local Government Finance Act 1988 Sch 11 para 11 (amended by the Local Government Finance Act 1992 Sch 13 para 88(10). (11))); and
(5) the inspection of tribunal records (see the Local Government Finance Act 1988 Sch 11 para 12). See note 1 supra.

4 For the meaning of 'Wales' see para 1 note 2 ante.

5 Local Government Finance Act 1988 Sch 11 para 1(2)(b) (substituted by the Local Government Act 2003 Sch 7 paras 9(1), 27(a)). See note 1 supra.

For these purposes, regulations under the Local Government Finance Act 1988 Sch 11 para 1 (as amended) may include provision relating to:

(1) membership (see Sch 11 para 5 (as amended: see note 3 supra));
(2) staff (see Sch 11 para 6 (amended by the Local Government Finance Act 1992 s 117(2), Sch 13 para 88(4), (5), Sch 14; the Employment Rights Act 1996 s 240, Sch 1 para 38; and the Local Government Act 2003 Sch 7 paras 9(1), 27(b)));
(3) accommodation and equipment (see the Local Government Finance Act 1988 Sch 11 para 7 (amended by the Local Government Act 2003 Sch 7 para 27(c)));
(4) the procedure for determining an appeal (see the Local Government Finance Act 1988 Sch 11 para 8 (as amended: see note 3 supra));
(5) the making of orders (see Sch 11 paras 9, 10, 10A (Sch 11 paras 9, 10 as amended, and para 10A as added: see note 3 supra));
(6) appeals in respect of a tribunal order or decision (see Sch 11 para 11 (as amended: see note 3 supra)); and
(7) the inspection of tribunal records (see Sch 11 para 12). See note 1 supra.

6 See ibid Sch 11 para 16 (amended by the Local Government Finance Act 1988 Sch 13 para 88(14)).

Provision is made for the tribunals' duty to exercise the jurisdiction conferred on them by the Local Government Finance Act 1988 s 23 (repealed), by regulations under s 55 (as amended) (alteration of rating lists) (see para 128 ante), by s 46A(1) (as added), Sch 4A para 4 (as added and amended) (appeal against completion notice) (see para 68 ante), by s 62, Sch 9 para 5C (as added) (appeal against imposition of a penalty) (see para 141 ante), by the Local Government Finance Act 1992 s 16 (appeals in respect of council tax) (see para 353 post), regulations under s 24 (as amended) (alteration of valuation lists) (see para 273 post), s 14(2), Sch 3 para 3 (appeal against imposition of a penalty) (see para 308 post): Local Government Finance Act 1988 Sch 11 para 2 (amended by the Local Government and Housing Act 1989 s 139, Sch 5 paras 76, 79(3); the Local Government Finance Act 1992 Sch 13 para 88(2); and the Local Government Act 2003 s 72(5)). Regulations may make further provision in relation to jurisdiction: see the Local Government Finance Act 1988 Sch 11 paras 3, 14 (Sch 11 para 14 amended by the Local Government Finance Act 1992 Sch 13 para 88(12), Sch 14).

As regards any matter which falls within the jurisdiction conferred on tribunals by or under the Local Government Finance Act 1988, regulations may provide that, where the persons who (if the matter were to be the subject of an appeal to a tribunal) would be the parties to the appeal, agree in writing that the matter is to be referred to arbitration, the matter must be so referred: see Sch 11 paras 4, 15 (Sch 11 para 15 amended by the Local Government Finance Act 1992 Sch 13 para 88(1), (3), (13)). See note 1 supra.

7 See the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 1. The 'establishment date' means 1 May 1989: reg 2(1). Valuation tribunals were originally called valuation and community charge tribunals, but were re-named 'valuation tribunals' in consequence of the introduction

of the council tax system and the abolition of community charges for the financial years from 1 April 1993: see the Local Government Finance Act 1992 s 15(1). As to the abolition of the community charge see para 227 post.

8 See the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, which were subsequently amended to take account of structural or boundary changes made by the Local Government Act 1992, which took effect from 1 April 1996. There is a valuation tribunal for each of the areas ascertained in accordance with the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 3, Sch 1 (reg 3, Sch 1 substituted by SI 1997/2954; the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, Sch 1 amended by SI 2000/409). 'Area' in relation to a tribunal, unless the context otherwise requires, means the area for which it is established by the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 3 (as so substituted): reg 2(1). As to provision made for the Valuation Tribunal Service for England see para 149 et seq post.

9 See the Valuation Tribunals (Wales) Regulations 1995, SI 1995/3056 (revoked). The tribunals referred to in the text were allowed to continue in existence when the Valuation Tribunal Service for Wales was established on 3 January 2006 with power to establish new tribunals for each of the areas set out in the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 11, Sch 1: see reg 5. As to the Valuation Tribunal Service for Wales see para 150 et seq post.

The Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439 (as amended) do not apply to the new tribunals in Wales or to any proceedings before those tribunals: see reg 1A (added by SI 1995/3056).

10 See *A-G v British Broadcasting Corpn* [1981] AC 303, [1980] 3 All ER 161, HL (local valuation court was not an inferior court for the purposes of RSC Ord 52 r 1 (committal for contempt of court) (see CONTEMPT OF COURT vol 9(1) (Reissue) para 454)); *Jeremy Pickering (t/a City Agents) v Sogex Services (UK) Ltd* [1982] RVR 225 (local valuation court not a court of law).

Cases cited in this paragraph were decided prior to the coming into force of the Local Government Finance Act 1988 and, therefore, must now be considered in relation to the non-domestic rating provisions in Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 148 et seq post). As to the historical development of rating law and the continuing relevance of the old case law to the current statutory regime see para 2 ante.

148. Membership of valuation tribunals. The number of members that can be appointed to each valuation tribunal is determined in accordance with limits specified in the regulations[1].

Members of the tribunals for England[2] are appointed by the relevant authorities and the president of the tribunal[3] and those for Wales[4] by the appointing councils and the president jointly[5].

The members of each tribunal must appoint a person to be the president of the tribunal[6]. The number of members of a tribunal to be appointed to the position of chairman is determined for England by the Secretary of State[7] and for Wales by the Valuation Tribunal Service for Wales[8]. One of the chairmen must be the president and the others must be appointed by the members of the tribunal by election from among their number[9]. Members may be entitled to travelling, subsistence and other allowances[10].

1 See the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 4(1), (2) (reg 4 substituted by SI 2000/409), the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, Sch 1 (Sch 1 substituted by SI 1997/2954; amended by SI 2000/409); and the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 12, Sch 1.

2 For the meaning of 'England' see para 1 note 2 ante.

3 See the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 4(3) (as substituted: see note 1 supra), reg 5 (substituted by SI 2000/409). For these purposes, 'president', in relation to a tribunal, means the president of that tribunal appointed under the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 7 (as amended) (see the text and note 6 infra): reg 2(1). 'Relevant authority', in relation to a vacancy in the membership of a tribunal, means the authority which had the power to appoint or to participate in the appointment of the member whose membership has ceased, except in the case of an area in relation to which any of the area changes provisions applies, when it is the authority which, in accordance with the provision in question, would have the power to appoint a member, the 'area changes provisions' being specified provisions of the Local Government Changes for England (Valuation and Community Charge Tribunals) Regulations 1996, SI 1996/43, the Local Government Changes for England (Valuation and Community Charge Tribunals)

Regulations 1997, SI 1997/75, and the Local Government Changes for England (Valuation Tribunals) Regulations 1997, SI 1997/2954: see the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 2(1) (definitions added by SI 2000/409).

As to duration of membership see the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 6 (amended by SI 1995/363; SI 1997/75; SI 2000/409); and as to disqualification from membership see the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 9 (substituted by SI 2004/482; amended by SI 2005/3302).

4 For the meaning of 'Wales' see para 1 note 2 ante.

5 See the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 12. In certain circumstances where a council and the president have failed to make an appointment, that appointment may be made by the Welsh Ministers after consultation with the president: see reg 12. For these purposes, 'president' ('llywydd') means a president of a valuation tribunal appointed under reg 14 (see the text and note 6 infra): reg 2(1). The appointing councils are those prescribed in relation to each valuation tribunal in Sch 1. As to the Welsh Ministers see para 3 ante.

As to duration of membership see reg 13; and as to disqualification from membership see reg 16.

6 As to the president see the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 7 (amended by SI 1995/363); and the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 14.

7 See the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 8 (amended by SI 1995/363). As to the Secretary of State see para 3 ante.

8 See the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 15. As to the Valuation Tribunal Service for Wales see para 150 post.

9 See the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 8 (as amended: see note 7 supra); and the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 15.

10 See the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 10 (substituted by SI 1993/292); and the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 17.

B. THE VALUATION TRIBUNAL SERVICES

149. The Valuation Tribunal Service. The Valuation Tribunal Service (the 'Service')[1] has the following functions in relation to valuation tribunals in England[2]:

(1) providing, or arranging for the provision of, the services required for the operation of tribunals[3], in particular accommodation[4], staff (including clerks to tribunals)[5], information technology[6], equipment[7] and training for members and staff of (including clerks to) tribunals[8];

(2) giving general advice about procedure in relation to proceedings before tribunals[9].

The Service must provide the Secretary of State with such information, advice and assistance as he may require[10]. The Service may do anything which it considers is calculated to facilitate (or is conducive or incidental to) the carrying out of its functions[11], and must carry out its functions with respect to valuation tribunals in the manner which it considers best calculated to secure their efficient and independent operation[12]. The Service must, in relation to its functions with respect to valuation tribunals, consult the tribunals concerned about the carrying out of its functions[13]. The Secretary of State may: (a) after consultation with the Service, give directions to it for the purpose of securing the effective carrying out of its functions[14]; and (b) issue guidance to the Service about the carrying-out of its functions[15].

Further provision is made in relation to: (i) membership of the Service and the appointment of its chairman and deputy chairman[16]; (ii) disqualification from membership[17]; (iii) tenure of office[18]; (iv) remuneration, pensions, etc of members[19]; (v) staff[20]; (vi) committees of the Service[21]; (vii) proceedings[22]; (viii) delegation of the Service's functions[23]; (ix) members' interests[24]; (x) vacancies and defective appointments[25]; (xi) minutes[26]; (xii) execution and proof of instruments[27]; and (xiii) money[28].

1 Ie a body corporate established under the Local Government Act 2003: see s 105(1). The Secretary of State may make one or more schemes for the transfer to the Service of such of his property, rights and

liabilities, or such of the property, rights and liabilities of a valuation tribunal in England, as appear to him to be appropriate to be transferred for the performance of the Service's functions: s 106(1). Further provision is made in relation to such transfer schemes by s 106(2), (3), Sch 5. For these purposes, 'valuation tribunal' means a tribunal established under the Local Government Finance Act 1988 s 136, Sch 11 (as amended) (see para 147 ante): Local Government Act 2003 s 124. For the meaning of 'England' see para 1 note 2 ante. As to the Secretary of State see para 3 ante.

The Valuation Tribunal Service is subject to investigation by the Parliamentary Commissioner for Administration: see the Parliamentary Commissioner Act 1967 s 4(1) (as substituted), Sch 2 (as substituted and amended); and ADMINISTRATIVE LAW vol 1(1) (2001 Reissue) para 43. The administrative and departmental records of the Valuation Tribunal Service are public records, whether or not they are records belonging to Her Majesty: see the Public Records Act 1958 s 10(1), Sch 1 para 3 Table Pt II (as amended); and CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) para 835. The Valuation Tribunal Service is a public authority for the purposes of the Freedom of Information Act 2000: see s 3, Sch 1 Pt VI (as amended); and CONFIDENCE AND DATA PROTECTION vol 8(1) (2003 Reissue) para 583.

2 Local Government Act 2003 s 105(2).
3 Ibid s 105(2)(a).
4 Ibid s 105(2)(a)(i).
5 Ibid s 105(2)(a)(ii).
6 Ibid s 105(2)(a)(iii).
7 Ibid s 105(2)(a)(iv).
8 Ibid s 105(2)(a)(v).
9 Ibid s 105(2)(b).
10 Ibid s 105(3).
11 Ibid s 105(4).
12 Ibid s 105(5).
13 Ibid s 105(6).
14 Ibid s 105(7)(a). The Service must, in carrying out its functions, comply with any directions under head (a) in the text: s 105(8).
15 Ibid s 105(7)(b). The Service must, in carrying out its functions, have regard to any guidance under head (b) in the text: s 105(8).
16 See ibid s 105(9), Sch 4 para 1.

All members of the Valuation Tribunal Service are disqualified for membership of the House of Commons: see the House of Commons Disqualification Act 1975 s 1(1)(f), Sch 1 Pt II (as amended); and PARLIAMENT vol 34 (Reissue) para 610.

17 See the Local Government Act 2003 Sch 4 para 2 (Sch 4 para 2 amended by the Civil Partnership Act 2004 s 261(1), Sch 27 para 171).
18 Local Government Act 2003 Sch 4 paras 3–5.
19 See ibid Sch 4 para 6.
20 See ibid Sch 4 paras 7–9. As to pensions payable under the Local Government Pension Scheme in respect of service as an employee of the Valuation Tribunal Service see the Pensions Increase (Valuation Tribunal Service) Regulations 2004, SI 2004/558.
21 See the Local Government Act 2003 Sch 4 para 10.
22 See ibid Sch 4 para 11.
23 See ibid Sch 4 para 12.
24 See ibid Sch 4 paras 13–14.
25 See ibid Sch 4 para 15.
26 See ibid Sch 4 para 16.
27 See ibid Sch 4 para 17.
28 See ibid Sch 4 paras 18–20.

150. The Valuation Tribunal Service for Wales. The Valuation Tribunal Service for Wales comprises of the valuation tribunals established in Wales[1]. The Valuation Tribunal Service for Wales must appoint a chief executive to serve it, and a clerk for each valuation tribunal, and the Service may appoint other employees as it so determines[2].

The Valuation Tribunal Service for Wales must maintain a permanent office[3]; and the chief executive[4] has the function on behalf of the Valuation Tribunal Service for Wales of making such arrangements as will secure that it has such other accommodation, and such secretarial and other equipment, as is sufficient for the performance of its functions[5].

1 See the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 5. The text refers to the valuation tribunals established under reg 11 (see para 147 ante): see reg 5. The functions of the Valuation Tribunal Service for Wales under the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364 are performed on its behalf by its governing council: see regs 6, 7, 19. As to membership of the governing council see regs 8–10. For the meaning of 'Wales' see para 1 note 2 ante.

2 See ibid reg 18. The functions of the chief executive and the clerks so appointed may be delegated to other employees of the Valuation Tribunal Service for Wales as the Valuation Tribunal Service for Wales so determines: see reg 18. As to the terms and conditions on which the chief executive, the clerks and the other employees are appointed and the remuneration and allowances payable to employees of the Service see reg 18. The administration of the allowances of members of the valuation tribunals and the governing council and of the remuneration and allowances of the Valuation Tribunal Service for Wales's employees is the responsibility of the chief executive: see reg 19.

3 See ibid reg 20.

4 Ie a chief executive appointed under ibid reg 18 (see the text and note 2 supra): see reg 20.

5 See ibid reg 20. As to the power to request the permission of a county or county borough council in Wales for the use of any premises belonging to that council by a valuation tribunal or its members, a special tribunal, the governing council, the chief executive, a clerk or employees of the Valuation Tribunal Service for Wales, on such days as may be specified in the request, see reg 21. As to local government areas and authorities in Wales and their councils see LOCAL GOVERNMENT vol 29(1) (Reissue) para 41 et seq.

C. APPEALS TO VALUATION TRIBUNALS

151. Appeals to valuation tribunals. Appeals to valuation tribunals[1] arise in relation to non-domestic rating where:

(1) there is a disagreement between a valuation officer[2] and a proposer[3] as to the validity of the proposal[4] to alter[5] a local non-domestic rating list[6];

(2) there is a disagreement as to whether the proposal to alter a local non-domestic rating list is well founded[7];

(3) there are disagreements as mentioned in heads (1) and (2) above between a proposer and the central valuation officer[8] in relation to an alteration to a central non-domestic rating list[9];

(4) there is an appeal against a completion notice[10];

(5) there is an appeal against imposition of a penalty[11] for failure to comply with a valuation officer's request for information[12].

It is the duty of the president[13] of the valuation tribunal to secure that arrangements are made for appeals under heads (1) to (5) above to be determined in accordance with the regulations[14].

Where an appeal arises under head (2) above and an appeal arises in relation to council tax under corresponding provisions[15], and the appeals relate to the same property[16]: (a) the president of the valuation tribunal must secure that appeals are dealt with in such order as appears to the president best designed to secure the interests of justice[17]; (b) the listing officer[18] must be joined as a party to the appeal under head (2) above[19]; and (c) the valuation officer must be joined as a party to the appeal under the corresponding council tax provision[20].

1 For the purposes of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659 (as amended) or the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758 (as amended), as the case may be, 'appeal' means an appeal under any of heads (1) to (5) in the text: see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 2(1); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 2(1). For the meaning of 'valuation tribunal' see para 129 note 8 ante. As to valuation tribunals and general provision made as to their jurisdiction see para 147 et seq ante. As to exceptions to the jurisdiction of a valuation tribunal to hear appeals see para 152 post.

2 For the meaning of 'valuation officer' see para 129 note 1 ante. As to valuation officers generally see para 6 ante.

3 For the meaning of 'proposer' for these purposes see para 129 note 8 ante.

4 For the meaning of 'proposal' for these purposes see para 129 note 8 ante.

5 For the meaning of 'alter' for these purposes see para 129 note 4 ante.

6 Ie under the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 8 (as amended) or the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 8 (as amended), as the case may be (see para 134 ante): Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 23(1)(a); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 23(1)(a). As to local non-domestic rating lists see para 121 et seq ante.

7 Ie under the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 13 and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 13 (as amended), as the case may be (see para 138 ante): Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 23(1)(a); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 23(1)(a).

A valuation tribunal must not hear an appeal under head (2) in the text until any appeal under head (1) in the text in respect of the same proposal has been decided: Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 23(2); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 23(2). Where two or more appeals relating to the same hereditament or hereditaments are referred to the tribunal under head (2) in the text, the appeals must be dealt with in the order in which the alterations in question would, but for the disagreements which occasion the appeals, have taken effect: see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 23(3); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 23(3). For the meaning of 'hereditament' see para 33 et seq ante.

8 As to the central valuation officer see para 6 ante.

9 Ie by virtue of the provisions referred to in heads (1) and (2) in the text as they are applied and modified under the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 18 and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 18 (as amended), as the case may be: see para 140 ante. As to central non-domestic rating lists see para 125 et seq ante.

10 Ie under the Local Government Finance Act 1988 s 46A(1) (as added). Sch 4A para 4 (as added and amended) (see para 68 ante), as it applies for the purposes of the non-domestic rating provisions in Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 152 et seq post): Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 23(1)(b); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 23(1)(b). For the meaning of 'completion notice' see para 68 note 10 ante. As to such appeals see para 68 ante.

11 Ie a penalty under the Local Government Finance Act 1988 s 62, Sch 9 para 5C (as added) (see para 141 ante): see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 23(1)(c); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 23(1)(c).

12 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 23(1)(c); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 23(1)(c). As to such appeals see para 141 ante.

13 As to the president of the valuation tribunal see para 148 ante.

14 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 23(1); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 23(1). The regulations referred to in the text are the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, Pt 5 (regs 24–39) (as amended) and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, Pt 5 (regs 24–39) (as amended), as the case may be (see para 153 et seq post): see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 23(1); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 23(1).

15 Ie under the Council Tax (Alteration of Lists and Appeals) Regulations 1993, SI 1993/290, reg 13 (disagreement as to proposed alteration to valuation list) (see para 274 post): see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 23(4); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 23(4).

16 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 23(4); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 23(4).

17 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 23(4)(a); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 23(4)(a).

18 As to the listing officer see para 230 post.

19 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 23(4)(b); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 23(4)(b). The clerk must, as soon as is reasonably practicable, give written notice to any person who is made a party to an appeal under head (b) in the text: Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 23(5); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 23(5). 'Clerk', in relation to an appeal, means the clerk of the relevant valuation tribunal: Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 2(1); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 2(1). For the meaning of 'relevant valuation tribunal' see para 129 note 8 ante.

As to parties to an appeal generally see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 2(3) and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 2(3), as the case may be; and paras 68 note 14, 134 note 26, 138 note 14, 141 note 20 ante, 152 note 2 post.

20 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 23(4)(c); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 23(4)(c). The provision referred to in the text is the Council Tax (Alteration of Lists and Appeals) Regulations 1993, SI 1993/290, reg 13 (see para 274 post): see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 23(4)(c); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 23(4)(c). The clerk of the relevant valuation tribunal (see note 19 supra) must, as soon as is reasonably practicable, give written notice to any person who is made a party to an appeal under head (c) in the text: Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 23(5); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 23(5).

152. Exceptions to the jurisdiction of a valuation tribunal to hear appeals. Provision is made for the following exceptions to be made to the jurisdiction of a valuation tribunal to hear appeals arising in relation to non-domestic rating[1].

Where the appellant[2] is an employee or member of the relevant valuation tribunal[3], his appeal must not be dealt with by that tribunal but by such other valuation tribunal as may be appointed for that purpose by the Secretary of State (or by the Welsh Ministers, as the case may be)[4].

Where it appears to the president[5] of the relevant valuation tribunal that by reason of a conflict of interests (or the appearance of such a conflict) it would be inappropriate for an appeal to be dealt with by that tribunal, the Secretary of State (or the Welsh Ministers, as the case may be) must, on being so notified by the president, appoint another tribunal to deal with that appeal[6].

Where the appellant is a former member or employee of the tribunal by which[7] his appeal would fall to be dealt with (and the president determines that it must not be dealt with by the tribunal) it must be dealt with by such other tribunal as may be appointed for the purpose by the Secretary of State (or by the Welsh Ministers, as the case may be)[8].

1 For the meaning of 'appeal' for these purposes see para 151 note 1 ante; and for the meaning of 'valuation tribunal' see para 129 note 8 ante. As to valuation tribunals and general provision made as to their jurisdiction see para 147 et seq ante.

2 Ie the person making the appeal under the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659 (as amended) or under the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758 (as amended), as the case may be: Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 2(3); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 2(3).

3 For the meaning of 'relevant valuation tribunal' see para 129 note 8 ante. As to employees and members of valuation tribunals see para 148 ante.

4 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 22(1); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 22(1). As to the Secretary of State and the Welsh Ministers see para 3 ante.

5 As to the president of the valuation tribunal see para 148 ante.

6 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 22(2); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 22(2).

7 Ie in pursuance of any provision of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 22 or the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758 reg 22, as the case may be: see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 22(3); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 22(3).

8 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 22(3); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 22(3).

153. Withdrawal of appeal to a valuation tribunal. An appeal to a valuation tribunal[1] may be withdrawn before the hearing commences, or before the consideration of written representations[2], where notice to that effect is given to the clerk[3]:

(1) in the case of an appeal against a completion notice[4], or an appeal against imposition of a penalty[5] for failure to comply with a valuation officer's request for information, by the appellant[6] in writing[7]; and

(2) in any other case, by the valuation officer[8] (but only where every other party to the appeal has given written consent to him for the withdrawal of the appeal)[9].

When the clerk has received the notice of withdrawal under head (1) above, he must notify the appellant of that fact, and serve a copy of his notice of receipt on all other parties to the appeal[10]. Where the valuation officer alters the list in accordance with a proposal[11], or where an alteration to the list is agreed[12], the valuation officer (or, as the case may be, the central valuation officer[13]) must notify the clerk accordingly, and the appeal is deemed to have been withdrawn[14]. Where, following the initiation of an appeal against imposition of a penalty, the valuation officer decides to remit the penalty, the valuation officer must notify the clerk accordingly, and the appeal is also deemed to have been withdrawn[15].

1 For the meaning of 'appeal' for these purposes see para 151 note 1 ante; and for the meaning of 'valuation tribunal' see para 129 note 8 ante. As to valuation tribunals see para 147 et seq ante.

2 As to appeal by written representations see para 154 post.

3 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 24(1) (amended by SI 2006/2312); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 24(1). This provision is without prejudice to the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 8(2) and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 8(2), as the case may be (see para 134 ante) and, in relation to England only, also without prejudice to the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 8(5)(b) (as substituted) (see para 134 ante): see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 24(1) (as so amended); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 24(1). 'Clerk', in relation to an appeal, means the clerk of the relevant valuation tribunal: Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 2(1); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 2(1). For the meaning of 'relevant valuation tribunal' see para 129 note 8 ante. As to the service of notices generally see para 129 notes 2, 7 ante.

Once an appeal is validly withdrawn, the tribunal has no jurisdiction to determine it: *R v East Norfolk Local Valuation Court, ex p Martin* [1951] 1 All ER 743, 49 LGR 627. This case was decided prior to the coming into force of the Local Government Finance Act 1988 and, therefore, must now be considered in relation to the non-domestic rating provisions in Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 154 et seq post). As to the historical development of rating law and the continuing relevance of the old case law to the current statutory regime see para 2 ante.

4 For the meaning of 'completion notice' see para 68 note 10 ante. As to such appeals see para 68 ante.
5 Ie a penalty under the Local Government Finance Act 1988 s 62, Sch 9 para 5C (as added) (see para 141 ante): see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 24(1)(a); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 24(1)(a).
6 For the meaning of 'appellant' see para 152 note 2 ante.
7 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 24(1)(a); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 24(1)(a).
8 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 24(1)(b); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 24(1)(b). For the meaning of 'valuation officer' see para 129 note 1 ante. As to valuation officers generally see para 6 ante.
9 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 24(2); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 24(2). This is subject to the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 24(4) and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 24(4), as the case may be (see the text and notes 11–14 infra): see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 24(2); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 24(2).

As to who constitute parties to an appeal see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 2(3) and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 2(3), as the case may be; and paras 68 note 14, 134 note 26, 138 note 14, 141 note 20, 152 note 2 ante.
10 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 24(3); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 24(3).
11 Ie after a referral of an appeal under the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 13 or the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 13 (as amended), as the case may be (see para 138 ante): Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 24(4); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 24(4). 'List' means a local non-domestic rating list or the central non-domestic rating list compiled on or after 1 April 2005: Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 21; Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 21. As to local non-domestic rating lists see para 121 et seq ante; and as to central non-domestic rating lists see para 125 et seq ante. For the meaning of 'proposal' for these purposes see para 129 note 8 ante.
12 Ie under the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 12 or under the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 12, as the case may be (see para 137 ante): Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 24(4); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 24(4).
13 As to the central valuation officer see para 6 ante; and as to provision for appeals to be made in relation to central rating lists see para 151 ante.
14 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 24(4); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 24(4).
15 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 24(5); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 24(5).

154. Appeals to valuation tribunal by written representation. An appeal to a valuation tribunal[1] may be disposed of on the basis of written representations if all the parties have given their agreement in writing[2]. Where there is such agreement, the clerk of the tribunal[3] must serve notice on the parties accordingly[4]; and within four weeks of being so notified each party may serve a notice on the clerk[5] either stating that party's reasons (or further reasons) for the disagreement giving rise to the appeal[6], or stating that that party does not intend to make further representations[7]. A copy of any such notice must be served by the clerk on the other party or parties to the appeal, together with a

statement of the procedure to be followed[8]. A party on whom a notice is so served may, within four weeks of that service, serve on the clerk a further notice either stating his reply to the other party's statement, or stating that he does not intend to make further representations, as the case may be; and the clerk must serve a copy of any such further notice on the other party or parties[9]. After the expiry of a further four weeks[10], the clerk must submit to the valuation tribunal[11] copies of: (1) any information transmitted to him under the alteration and appeals provisions[12]; and (2) any notice containing a statement, which has been served under the written representations procedure[13]. The tribunal to which an appeal is so referred may, if it thinks fit: (a) require any party to furnish in writing further particulars[14] of the grounds relied on and of any relevant facts or contentions[15]; or (b) order that the appeal be disposed of on the basis of a hearing[16].

1 Ie an appeal under the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659 (as amended) or under the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758 (as amended), as the case may be: see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 25(1); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 25(1). For the meaning of 'appeal' for these purposes see para 151 note 1 ante; and for the meaning of 'valuation tribunal' see para 129 note 8 ante. As to valuation tribunals see para 147 et seq ante.

2 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 25(1); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 25(1).

As to who constitute parties to an appeal see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 2(3) and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 2(3), as the case may be; paras 68 note 14, 134 note 26, 138 note 14, 141 note 20, 152 note 2 ante.

3 'Clerk', in relation to an appeal, means the clerk of the relevant valuation tribunal: Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 2(1); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 2(1). For the meaning of 'relevant valuation tribunal' see para 129 note 8 ante.

4 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 25(2); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 25(2). As to the service of notices generally see para 129 notes 2, 7 ante.

5 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 25(2); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 25(2).

6 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 25(2)(a); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 25(2)(a).

7 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 25(2)(b); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 25(2)(b).

8 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 25(3); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 25(3). The text refers to a statement of the procedure to be followed by virtue of the effect of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 25(4), (5) or the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 25(4), (5), as the case may be (see the text and notes 9–13 infra): see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 25(3); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 25(3).

9 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 25(4); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 25(4).

10 Ie beginning with the expiry of the period of four weeks mentioned in the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 25(4) or in the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 25(4), as the case may be (see the text and note 9 supra): see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 25(5); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 25(5).

11 Ie the tribunal constituted as provided in the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 30 or the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 30, as the case may be (see para 157 post): see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 25(5); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 25(5).

12 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 25(5)(a); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 25(5)(a). The text refers to any information transmitted to the clerk under the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659 (as amended) or under the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758 (as amended), as the case may be: see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 25(5)(a); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 25(5)(a).

13 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 25(5)(b); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 25(5)(b). The text refers to any notice served under the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 25(2), (4) or under the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 25(2), (4), as the case may be (see the text and notes 3–7, 9 supra): see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 25(5)(b); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 25(5)(b).

14 Where any party has furnished further particulars in response to a request by a valuation tribunal under head (a) in the text, the clerk must serve a copy of those particulars on every other party, and each such party may, within four weeks of such service, serve any further statement he wishes to make in response on the clerk: Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 25(7); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 25(7) (amended by SI 2006/1035).

15 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 25(6)(a); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 25(6)(a).

16 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 25(6)(b); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 25(6)(b).

155. Pre-hearing reviews. With a view to clarifying the issues to be dealt with at a hearing, the chairman of the relevant valuation tribunal[1] may, on the application of a party to an appeal[2], or of his own motion, not less than four weeks after giving notice to the parties to that effect, order a pre-hearing review to be held[3]. At the pre-hearing review, the chairman must endeavour to secure that all parties make such admissions and agreements as ought reasonably to be made by them in relation to the proceedings[4].

1 For the meanings of 'relevant valuation tribunal' and 'valuation tribunal' see para 129 note 8 ante. As to valuation tribunals see para 147 et seq ante; and as to the chairman see para 148 ante.

2 For the meaning of 'appeal' for these purposes see para 151 note 1 ante. As to who constitute parties to an appeal see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 2(3) and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 2(3), as the case may be; paras 68 note 14, 134 note 26, 138 note 14, 141 note 20, 152 note 2 ante.

3 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 26(a); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 26(a) (amended by SI 2006/1035).

4 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 26(b); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 26(b).

156. Preliminary notices to be given regarding the hearing of an appeal. Where an appeal to a valuation tribunal[1] is to be disposed of on the basis of a hearing, the clerk of the tribunal[2] must serve notice on the parties[3], not less than four weeks in

advance, of the date, time and place appointed for the hearing[4]. The clerk must also advertise the above particulars in a notice giving such information conspicuously displayed: (1) at the valuation tribunal's office[5]; (2) outside an office of the relevant authority[6] appointed by the authority for that purpose[7]; or (3) in another place within that authority's area[8]. This notice must also name a place where a list of the appeals to be heard may be inspected[9].

Where the hearing of an appeal has been postponed, the clerk must take such steps as are practicable in the time available both to notify the parties to the appeal of the postponement[10], and to advertise the postponement[11].

1 For the meaning of 'appeal' for these purposes see para 151 note 1 ante; and for the meaning of 'valuation tribunal' see para 129 note 8 ante. As to valuation tribunals see para 147 et seq ante.

2 'Clerk', in relation to an appeal, means the clerk of the relevant valuation tribunal: Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 2(1); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 2(1). For the meaning of 'relevant valuation tribunal' see para 129 note 8 ante.

3 As to who constitute parties to an appeal see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 2(3) and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 2(3), as the case may be; paras 68 note 14, 134 note 26, 138 note 14, 141 note 20, 152 note 2 ante.

4 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 27(1); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 27(1).

In *R v Cheshire East Local Valuation Court, ex p Peasnall* [1961] RVR 199, it was held that failure to give notice to an entitled person could result in quashing the decision. As to the powers given to a tribunal to review its own decisions see para 162 post. This case was decided prior to the coming into force of the Local Government Finance Act 1988 and, therefore, must now be considered in relation to the non-domestic rating provisions in Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 157 et seq post). As to the historical development of rating law and the continuing relevance of the old case law to the current statutory regime see para 2 ante.

5 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 27(2)(a); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 27(2)(a). As to valuation tribunals and their offices see paras 147–150 ante.

6 For the meaning of 'relevant authority' see para 129 note 3 ante.

7 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 27(2)(b); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 27(2)(b).

8 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 27(2)(c); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 27(2)(c).

9 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 27(3); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 27(3).

10 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 27(4)(a); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 27(4)(a).

11 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 27(4)(b); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 27(4)(b).

157. Conduct of the hearing. A valuation tribunal's[1] functions of hearing or determining an appeal[2] must be discharged by three members of the tribunal[3] (including at least one chairman[4], who must preside)[5], unless all parties to the appeal[6] agree to the appeal being decided by two members and notwithstanding the absence of a chairman[7].

The hearing must take place in public, unless the valuation tribunal orders otherwise on the application of a party, and on being satisfied that the interests of that party would be prejudicially affected by a public hearing[8].

The valuation tribunal may dismiss an appeal where only the valuation officer[9] or listing officer appears[10], or where, on a completion notice appeal[11], the appellant[12] does

not appear[13]. If, at the hearing of an appeal, any party does not appear, the tribunal may hear and determine the appeal in his absence[14]. Any party to an appeal which is to be decided at a hearing may appear in person (with assistance from any person if he wishes), by counsel or solicitor or any other representative[15] (other than a person who is a member, clerk or other employee of the valuation tribunal)[16]. The tribunal may require witnesses to give evidence on oath or by affirmation, and has power for that purpose to administer an oath or affirmation in due form[17].

Unless the valuation tribunal determines otherwise: (1) where the appeal arises from a valuation officer considering the proposal to be invalid[18], or where it arises from an alteration of a list[19] by the valuation officer, the valuation officer must begin the hearing[20]; (2) at the hearing of an appeal against a completion notice, the relevant authority must begin the hearing[21]; and (3) in any other case, parties at the hearing may be heard in such order as the tribunal determines[22].

The valuation tribunal must[23]: (a) conduct the hearing in such manner as it considers most suitable to the clarification of issues before it, and generally to the just handling of the proceedings[24]; (b) so far as appears to it appropriate, seek to avoid formality in its proceedings[25]; and (c) not be bound by any enactment or rule of law relating to the admissibility of evidence before courts of law[26]. Parties at the hearing may call witnesses and examine any of the witnesses before the tribunal[27]. A hearing may be adjourned for such time, to such place and on such terms as the tribunal thinks fit[28]; reasonable notice of the time and place to which the hearing has been adjourned must be given to every party[29]. A valuation tribunal may enter and inspect the hereditament which is the subject of the appeal and, as far as is practicable, any comparable land or property to which the attention of the tribunal is drawn[30].

Where, at the hearing of an appeal on the grounds of disagreement as to whether the proposal to alter a local non-domestic rating list is well founded[31], the valuation officer contends that the proposal was not validly made, and the tribunal does not uphold his contention, the tribunal must not immediately proceed to determine the appeal unless every party so agrees[32].

1 For the meaning of 'valuation tribunal' see para 129 note 8 ante. As to valuation tribunals see para 147 et seq ante.

2 For the meaning of 'appeal' for these purposes see para 151 note 1 ante.

3 As to the membership and staff of valuation tribunals see para 148 ante.

A person is disqualified from participating as a member in the hearing or determination of (or acting as clerk or officer of a tribunal in relation to) an appeal against a completion notice (see para 68 ante) if he is a member of the relevant authority concerned or is disqualified from so participating in an appeal under the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 13 or the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 13 (as amended), as the case may be (see para 138 ante) if he is a member of the special authority concerned: Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 28(1); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 28(1) (amended by SI 2006/1035). For these purposes, references to the relevant authority concerned and to the special authority concerned are references to the relevant authority and special authority in whose area the hereditament which is the subject of the appeal is situated: Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 28(2); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 28(2). 'Clerk', in relation to an appeal, means the clerk of the relevant valuation tribunal: Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 2(1); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 2(1). For the meaning of 'completion notice' see para 68 note 10 ante; for the meaning of 'hereditament' see para 33 et seq ante; for the meaning of 'relevant authority' see para 129 note 3 ante; for the meaning of 'relevant valuation tribunal' see para 129 note 8 ante; and for the meaning of 'special authority' see para 60 note 10 ante.

4 As to the appointment of chairmen of the valuation tribunal see para 148 ante.

5 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 30(1); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 30(1).

6 As to who constitute parties to an appeal see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 2(3) and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 2(3), as the case may be; and paras 68 note 14, 134 note 26, 138 note 14, 141 note 20, 152 note 2 ante.

7 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 30(2); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 30(2).

8 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 30(3); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 30(3).

9 For the meaning of 'valuation officer' see para 129 note 1 ante. As to valuation officers generally see para 6 ante.

10 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 30(4); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 30(4). As to the listing officer see para 230 post.

11 As to completion notice appeals see para 68 ante.

12 For the meaning of 'appellant' see para 152 note 2 ante.

13 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 30(5); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 30(5).

14 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 30(6); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 30(6).

15 An agent can give evidence as well as act as advocate: see *R v St Mary Abbotts, Kensington, Assessment Committee* [1891] 1 QB 378, CA.

Some of the cases cited in this paragraph were decided prior to the coming into force of the Local Government Finance Act 1988 and, therefore, must now be considered in relation to the non-domestic rating provisions in Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 158 et seq post). As to the historical development of rating law and the continuing relevance of the old case law to the current statutory regime see para 2 ante.

16 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 29; Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 29. See *Electricity Supply Nominees Ltd v Sharma (Valuation Officer)* [1985] RVR 188, [1985] 2 EGLR 173, CA, where it was held that the rating authority had appeared before a local valuation court when a representative had notified the clerk of his presence and sat through the hearing.

17 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 30(7); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 30(7).

18 Ie at the hearing of an appeal under the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 8 (as amended) or the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 8 (as amended), as the case may be (see para 134 ante): see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 30(8)(a); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 30(8)(a). For the meaning of 'proposal' for these purposes see para 129 note 8 ante.

19 'List' means a local non-domestic rating list or the central non-domestic rating list compiled on or after 1 April 2005: Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 21; Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 21. As to local non-domestic rating lists see para 121 et seq ante; and as to central non-domestic rating lists see para 125 et seq ante. For the meaning of 'alteration' for these purposes see para 129 note 4 ante.

20 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 30(8)(a); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 30(8)(a).

21 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 30(8)(b); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 30(8)(b).

22 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 30(8); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 30(8).

23 Ie subject to any provision of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, Pt 5 (regs 21–39) (as amended) or the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, Pt 5 (regs 21–39) (as amended), as the case may be (see paras 151 et seq ante, 158 et seq post): Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 30(14); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 30(14).

24 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 30(14)(a); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 30(14)(a).

25 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 30(14)(b); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 30(14)(b).

26 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 30(14)(c); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 30(14)(c). For various evidential considerations see *Mullaney v Watford Borough Council and Hertfordshire Valuation Tribunal* [1997] RA 225.

27 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 30(9); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 30(9).

28 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 30(10); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 30(10).

29 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 30(10); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 30(10). As to notice of postponement see also para 156 ante.

30 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 30(11); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 30(11). However, when a valuation tribunal intends to enter any premises in this way it must give notice to the parties, who are entitled to be represented at the inspection; and where the tribunal deems it appropriate, such representation is to be limited to one person to represent those parties having the same interest in the appeal: Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 30(12); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 30(12).

31 Ie under the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 13 or the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 13 (as amended), as the case may be (see para 138 ante): see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 30(13); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 30(13).

32 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 30(13); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 30(13).

158. Admissibility of certain evidence before the valuation tribunal. In relation to an appeal to a valuation tribunal[1], the contents of a local or central non-domestic rating list[2] may be proved by the production of a copy of it (or of the relevant part) purporting to be certified to be a true copy by the valuation officer[3]; and the contents of a completion notice[4] may be proved by the production of a copy of it purporting to be certified to be a true copy by the proper officer of the relevant authority[5].

Information supplied by owners and occupiers of hereditaments[6] or by relevant authorities[7] is admissible in any relevant proceedings[8] as evidence of any fact stated in it; and any record[9] purporting to contain such information is, unless the contrary is shown, to be presumed to have been supplied by the person by whom it purports to have been supplied and to have been supplied by that person in any capacity in which it purports to have been supplied[10].

The valuation officer must not use such information in any relevant proceedings unless: (1) not less than three weeks' notice[11] has previously been given to every other party to the proceedings[12]; and (2) any person who has given not less than 24 hours'

notice of his intention to do so, has been permitted by the valuation officer at any reasonable time to inspect the documents or other media in which such information is held, and to make a copy of (or of any extract from) any document containing such information[13]. Any person to whom the valuation officer has given notice (relating to any hereditament) under head (1) above may, before the hearing, himself serve notice on the valuation officer[14] specifying other hereditaments as being hereditaments which are comparable in character or otherwise relevant to that person's case[15], and requiring the valuation officer: (a) to permit him at a reasonable time specified in the notice to inspect and (if he so desires) make a copy of any document containing such information in the possession of the valuation officer[16]; and (b) to produce at the hearing or submit to the valuation tribunal such documents as before the hearing he has informed the valuation officer that he requires[17].

None of the above provisions requires the making available for inspection or copying (or the production of) any document in so far as it contains information other than: (i) information constituting direct evidence of rent payable in respect of the specified hereditaments[18]; or (ii) information which is otherwise reasonably required for the purpose of the relevant proceedings[19]. Where a notice has been given to the valuation officer requiring such information[20], and the valuation officer refuses or fails to comply with the notice, the person who gave the notice may apply to the valuation tribunal or, as the case may be, the arbitrator appointed to determine the appeal[21]; and that tribunal or arbitrator may, if satisfied that it is reasonable to do so, direct the valuation officer to comply with the notice as respects all the hereditaments or such of them as the tribunal or arbitrator may determine[22].

1 For the meaning of 'appeal' for these purposes see para 151 note 1 ante; and for the meaning of 'valuation tribunal' see para 129 note 8 ante. As to valuation tribunals see para 147 et seq ante.

2 Ie a local non-domestic rating list or the central non-domestic rating list compiled on or after 1 April 2005: see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 21; and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 21. As to local non-domestic rating lists see para 121 et seq ante; and as to central non-domestic rating lists see para 125 et seq ante.

3 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 32; Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 32. For the meaning of 'valuation officer' see para 129 note 1 ante. As to valuation officers generally see para 6 ante.

4 For the meaning of 'completion notice' see para 68 note 10 ante.

5 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 32; Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 32. For the meaning of 'relevant authority' see para 129 note 3 ante.

6 Ie under the Local Government Finance Act 1988 s 62, Sch 9 para 5 (as amended) (see para 141 ante) or the General Rate Act 1967 s 82 (repealed: see para 2 ante): see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 31(1); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 31(1). For the meaning of 'hereditament' see para 33 et seq ante; and for the meaning of 'owner' see para 13 ante. As to occupiers see para 13 et seq ante.

7 Ie under the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 42 or the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 42, as the case may be (see para 142 ante): see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 31(1); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 31(1).

8 For these purposes, 'relevant proceedings' means any proceedings on or in consequence of an appeal, and any proceedings on or in consequence of a reference to arbitration under the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 38 or the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 38, as the case may be (see para 164 post): Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 31(8); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 31(8).

There appears to be no restriction upon use of information obtained after objection to the proposal: see *Smith v Moore (Valuation Officer)* [1972] RA 269, 17 RRC 377, Lands Tribunal. All of the cases cited in this paragraph were decided prior to the coming into force of the Local Government Finance Act 1988 and, therefore, must now be considered in relation to the non-domestic rating provisions in Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 159 et seq post). As to the historical development of rating law and the continuing relevance of the old case law to the current statutory regime see para 2 ante.

9 If any information required to be made available for inspection in accordance with the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 31 or the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 31 (as amended), as the case may be, is not maintained in documentary form, the duty to make it so available is satisfied if a print-out, photographic image or other reproduction of the document which has been obtained from the storage medium adopted in relation to the document is made available for inspection: Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 31(9); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 31(9).

10 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 31(2); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 31(2). As to penalties for providing false information see para 141 ante.

11 The notice must specify, in relation to any information to be so used, the documents or other media in or on which that information is held, the hereditament or hereditaments to which it relates (and the rateable value or rateable values in the list current at the date of the notice), the name and address of the person providing the information, and a summary of the terms of any lease (including the rent, dates of rental reviews and description of the repairing obligations): Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 31(3)(b); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 31(3)(b). As to the service of notices generally for these purposes see para 129 notes 2, 7 ante. As to the rateable value see para 86 et seq ante.

12 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 31(3)(a); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 31(3)(a). See *Harrow Corpn v Betts (Valuation Officer)* (1960) 7 RRC 328.

As to who constitute parties to an appeal see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 2(3) and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 2(3), as the case may be; and paras 68 note 14, 134 note 26, 138 note 14, 141 note 20, 152 note 2 ante.

13 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 31(3)(c); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 31(3)(c).

14 As to the service of notice on a valuation officer see para 132 note 4 ante.

15 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 31(4); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 31(4). The number of hereditaments specified in such a notice is limited to four or, if greater, the number specified in the valuation officer's notice given under head (1) in the text: Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 31(5); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 31(5). As to the power of the appellant to adduce evidence from other sources see *Wilks v Cawley (Valuation Officer)* [1965] RA 632, 11 RRC 336, Lands Tribunal.

16 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 31(4)(a); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 31(4)(a) (amended by SI 2006/1035). As to whether details of hereditaments outside a valuation officer's area can be in his possession see *Morgan (Valuation Officer) v Bishop's Stores Ltd* [1963] RA 305, 10 RRC 128, Lands Tribunal; but cf *Mortimore (Valuation Officer) v FW Woolworth & Co Ltd* [1966] RA 527, 13 RRC 226, Lands Tribunal. The decisions in the cases cited supra create an anomaly which remains as provision is made for the disclosure of information as between valuation officers and a power for regulations to be made ensuring that such information is admissible as evidence in appeals or arbitrations: see para 6 ante. There is, however, no need to ask the valuation officer to produce further returns if satisfactory evidence can be adduced from other sources: see *Wilks v Cawley (Valuation Officer)* [1965] RA 632, 11 RRC 336, Lands Tribunal.

17 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 31(4)(b); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 31(4)(b).

18 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 31(6)(a); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 31(6)(a).

19 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 31(6)(b); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 31(6)(b).

20 Ie information requested under the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 31(4) or the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 31(4) (as amended), as the case may be (see the text and notes 14–17 supra): see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 31(7); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 31(7).

21 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 31(7); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 31(7).

22 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 31(7); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 31(7).

159. Decisions of the valuation tribunal. An appeal to a valuation tribunal[1] may be decided by a majority of the members participating[2]. However, where only two members are sitting[3] and they are unable to agree, the appeal must be remitted by the clerk[4] to be decided by a tribunal consisting of three different members[5]. Where an appeal is disposed of on the basis of a hearing[6], the decision may be reserved or given orally at the end of the hearing[7]. The aim of the tribunal is to determine the correct rateable value of the hereditament, if that is the issue, and the tribunal may rely on its own expert judgement and is not bound to accept the value of one or other party to the appeal[8].

As soon as reasonably practicable after it is made, the decision must be confirmed (if given orally), or communicated in writing (in any other case), by notice in writing to the parties[9], together with a statement of reasons for the decision[10]. However, written notice to a party is not required if it would be repetitive of any copy record which is supplied to that party[11] as a record of the decision[12]. In the case of an appeal against a completion notice[13], the clerk must send notice of the decision to the valuation officer for the relevant authority[14].

Under the General Rate Act 1967 (now repealed), the valuation court was limited to 'giving effect to the contention of the parties'[15]. Although no such restriction is contained in the current legislation, it is accepted that the jurisdiction of the valuation tribunal continues to be defined by the issues which are raised in the proposal (and the objection thereto) and that such jurisdiction cannot be extended[16]. This being so, earlier cases on restricting a tribunal's decision to the 'contention of the parties' are still of some relevance[17].

1 For the meaning of 'appeal' for these purposes see para 151 note 1 ante; and for the meaning of 'valuation tribunal' see para 129 note 8 ante. As to valuation tribunals see para 147 et seq ante.

2 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 33(1); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 33(1). As to the membership and staff of valuation tribunals see para 148 ante.

Where one member of a three member panel died between the hearing and the decision, the decision of the two remaining members was valid as a decision of the majority: *R v Greater Manchester Valuation Panel, ex p Shell Chemicals (UK) Ltd* [1982] QB 255, [1981] 3 WLR 752. Most of the cases cited in this paragraph were decided prior to the coming into force of the Local Government Finance Act 1988 and, therefore, must now be considered in relation to the non-domestic rating provisions in Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 160 et seq post). See also the text and notes 15–17 infra. As to the historical development of rating law and the continuing relevance of the old case law to the current statutory regime see para 2 ante.

3 Ie pursuant to the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 30(2) or the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 30(2), as the case may be (see para 157 ante): see the Non-Domestic

Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 33(1); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 33(1).

4 'Clerk', in relation to an appeal, means the clerk of the relevant valuation tribunal: Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 2(1); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 2(1). For the meaning of 'relevant valuation tribunal' see para 129 note 8 ante.

5 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 33(1); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 33(1).

6 Ie in contradistinction to disposal by way of written representation, as to which see para 154 ante.

7 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 33(2); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 33(2).

8 *R v Westminster Assessment Committee, ex p Grosvenor House (Park Lane) Ltd* [1941] 1 KB 53 at 70, CA, per du Parcq LJ; *Morecombe and Heysham Borough Council v Robinson (Valuation Officer)* [1961] 1 All ER 721 at 725, [1961] 1 WLR 373 at 378–379, CA, per Holroyd Pearce LJ; *Hardiman (Valuation Officer) v Crystal Palace Football and Athletic Club Ltd* (1955) 48 R & IT 91, Lands Tribunal. As to the rateable value see para 86 et seq ante.

As to who constitute parties to an appeal see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 2(3) and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 2(3), as the case may be; and paras 68 note 14, 134 note 26, 138 note 14, 141 note 20, 152 note 2 ante.

9 As to the service of notices generally see para 129 notes 2, 7 ante.

10 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 33(3); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 33(3).

11 Ie in accordance with the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 36 or the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 36, as the case may be (see para 161 post): see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 33(4); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 33(4) (as amended: see note 12 infra).

12 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 33(4); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 33(4) (amended by SI 2006/1035).

13 For the meaning of 'completion notice' see para 68 note 10 ante. As to completion notice appeals see para 68 ante.

14 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 33(5); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 33(5). For the meaning of 'relevant authority' see para 129 note 3 ante; and for the meaning of 'valuation officer' see para 129 note 1 ante. As to valuation officers generally see para 6 ante; and as to the service of notice on a valuation officer see para 132 note 4 ante.

15 See the General Rate Act 1967 s 76(5) (now repealed) (see para 2 ante).

16 See *Courtney plc v Murphy (Valuation Officer)* [1998] RA 77 at 85–86, Lands Tribunal, per P H Clarke FRICS, citing *Shaw v Hughes (Valuation Officer)* [1991] RVR 96 at 98, Lands Tribunal, per Marder J (citing in turn *Brighton Marine Palace and Pier Co v Rees (Valuation Officer)* [1961] RVR 614, 9 RRC 77, Lands Tribunal; *R v Winchester Area Assessment Committee, ex p Wright* [1948] 2 KB 455, [1948] 2 All ER 552, CA; and *R v Northamptonshire Local Valuation Court, ex p Anglian Water Authority* [1990] RA 93, CA). As to proposals and objections see para 130 et seq ante; as to general provision made as to valuation tribunals and their jurisdiction see para 147 et seq ante; and as to exceptions to the jurisdiction of a valuation tribunal to hear appeals see para 152 ante.

17 See *Ellerby v March* [1954] 2 QB 357, [1954] 2 All ER 375, CA (tribunal cannot increase or decrease an assessment beyond the increase or decrease claimed in the proposal); *Rees v Johnson (Valuation Officer)* (1957) 50 R & IT 641, Lands Tribunal; *Jones (Valuation Officer) v Eastern Valleys (Monmouthshire) Joint Sewerage Board* (1960) 53 R & IT 280, 6 RRC 379, Lands Tribunal; *JT Dove Ltd v Lloyd (Valuation Officer)* (1960) 53 R & IT 563, 9 RRC 51, Lands Tribunal; *Croydon Corpn v LCC and Hardiman (Valuation Officer)* [1962] RA 197, 9 RRC 302, Lands Tribunal (assessments on parts exceeding assessment on whole); *William Gunstone & Sons Ltd v Sheffield City Council* (1957) 51 R & IT 25, 2 RRC 325, Lands Tribunal (claim for derating only in notice of objection); *British Home Stores Ltd v Brighton County Borough Council and Burton (Valuation Officer)* (1958) 51 R & IT 665, (1958) 3 RRC 344, Lands Tribunal (merger of assessments); *Brighton Marine Palace and Pier Co v Rees (Valuation Officer)* [1961] RVR 614, 9 RRC 77, Lands Tribunal (contention that part of hereditament be separately assessed); and see *Ellesmere*

Port and Neston Borough Council v Shell UK Ltd [1980] 1 All ER 383, [1980] 1 WLR 205, CA. Where the proposal is to increase an assessment on grounds of structural additions, the court is not limited to considering the value of the additions; the assessment of the whole hereditament may be reviewed (*S Thomas & Co (Nottingham) Ltd v Emett (Valuation Officer)* (1955) 48 R & IT 761, Lands Tribunal). The court has power neither to direct the insertion of figures which do not represent the true values as at the relevant date nor to direct the date upon which an alteration is to take effect: *City of Sheffield v TB and W Cockayne Ltd and Donmall (Valuation Officer)* (1958) 4 RRC 258, 51 R & IT 810, Lands Tribunal. A court must not be influenced by sympathy: *Inchgreen Amateur Rowing Club v Greenock Assessor* (1956) 49 R & IT 264.

160. Orders. On or after deciding an appeal[1] arising from a disagreement as to whether the proposal to alter a list[2] is well founded[3], the valuation tribunal[4] may by order require the valuation officer[5] in consequence of the decision to alter a local or central non-domestic rating list[6]. On or after deciding an appeal against imposition of a penalty[7] for failure to comply with a valuation officer's request for information, the valuation tribunal may order the valuation officer whose notice is the subject of the appeal to mitigate or remit the penalty[8]. The valuation officer must comply with either such order within a period of two weeks beginning on the day it was made[9].

Where the decision is that a disputed rateable value[10] should be an amount greater than the amount shown in the list at the date of the proposal[11], and greater than the amount contended for in the proposal[12], the order must require the list to be altered with effect from the day on which the decision is given[13]. However, this does not apply where the order requires the list to be altered to show: (1) property previously rated as a single hereditament to be rated in parts[14]; (2) property previously liable to be rated in parts becoming liable to be rated as a single hereditament[15]; or (3) any part of a hereditament becoming part of a different hereditament[16].

Where it appears that circumstances giving rise to an alteration ordered by a valuation tribunal have ceased to exist at the date of the decision, the order may require the alteration to be made in respect of such period as appears to the tribunal to be commensurate with the duration of those circumstances[17].

An order of the tribunal may require any matter ancillary to its subject-matter to be attended to[18].

1 For the meaning of 'appeal' for these purposes see para 151 note 1 ante.

2 Ie a local non-domestic rating list or the central non-domestic rating list compiled on or after 1 April 2005: see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 21; and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 21. As to local non-domestic rating lists see para 121 et seq ante; and as to central non-domestic rating lists see para 125 et seq ante. For the meaning of 'alter' for these purposes see para 129 note 4 ante; and for the meaning of 'proposal' for these purposes see para 129 note 8 ante.

3 Ie an appeal under the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 13 and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 13 (as amended), as the case may be (see para 138 ante): Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 34(1); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 34(1).

4 For the meaning of 'valuation tribunal' see para 129 note 8 ante. As to valuation tribunals see para 147 et seq ante.

5 Ie subject to the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 34(4) or the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 34(4), as the case may be (see the text and notes 10–13 infra): see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 34(1); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 34(1). For the meaning of 'valuation officer' see para 129 note 1 ante. As to valuation officers generally see para 6 ante.

6 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 34(1); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005,

SI 2005/758, reg 34(1). The text refers to altering a list in accordance with any provision made by or under the Local Government Finance Act 1988: see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 34(1); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 34(1). In respect of any alteration directed to be made by a tribunal, the local non-domestic rating list must state whether the direction was given by a valuation tribunal or by the Lands Tribunal (as to which see para 165 et seq post): see the Non-Domestic Rating (Miscellaneous Provisions) Regulations 1989, SI 1989/1060, reg 3; and para 123 ante.

7 Ie an appeal under the Local Government Finance Act 1988 s 62, Sch 9 para 5C (as added) (see para 141 ante): see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 2(1); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 2(1).

8 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 34(2); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 34(2).

9 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 34(3); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 34(3).

10 As to the rateable value see para 86 et seq ante.

11 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 34(4)(a); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 34(4)(a).

12 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 34(4)(b); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 34(4)(b).

13 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 34(4); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 34(4).

14 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 34(5)(a); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 34(5)(a). For the meaning of 'hereditament' see para 33 et seq ante.

15 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 34(5)(b); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 34(5)(b).

16 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 34(5)(c); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 34(5)(c).

17 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 34(6); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 34(6).

18 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 34(7); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 34(7). As to the possible effect of this provision see *Re Appeal of Ebury (Valuation Officer)* [2003] RA 261, Lands Tribunal (regarding the scope of an order where a later proposal, accepted by the valuation officer, was followed by an appeal decision made on an earlier proposal).

It is provided that if the order of a tribunal is recorded in accordance with any provision included in regulations under the Local Government Finance Act 1988 s 136, Sch 11 para 1(1) (as amended) (see para 147 ante), the officer or authority ordered must attend to any ancillary matter provided for in the order such as the repayment of an amount, or the allowance of an amount by way of deduction against a sum due: see Sch 11 para 9 (as amended); and paras 147 ante, 164, 167 post.

161. Records of decisions, etc. The clerk of a valuation tribunal[1] must make arrangements for each decision[2], each order[3] and the effect of each certificate and revocation upon a review of a decision[4] to be recorded[5]. Records may be kept in any form, whether documentary or otherwise, and must contain the following specified particulars[6], namely: (1) the appellant's name and address[7]; (2) the matter appealed against[8]; (3) the date of the hearing or determination[9]; (4) the names of the parties who appeared, if any[10]; (5) the decision of the valuation tribunal and its date[11]; (6) the reasons for the decision[12]; (7) any order made in consequence of the decision[13]; (8) the date of any such order[14]; (9) any certificate setting aside the decision[15]; (10) any revocation upon

a review of a decision[16]. A copy, in documentary form, of the relevant entry in the record must, as soon as reasonably practicable after the entry has been made, be sent (by post, fax or electronic communication) to each party to the appeal to which the entry relates[17].

Each record must be retained for the period of six years beginning on the day on which an entry was last made in it[18]. Any person may, at a reasonable time stated by or on behalf of the valuation tribunal concerned and without payment, inspect the tribunal records made under the clerk's duty to record[19]. If any person having custody of the records, without reasonable excuse[20], intentionally obstructs a person exercising the right of inspection so conferred[21], he is liable on summary conviction to a fine not exceeding level 1 on the standard scale[22].

The member who presided at the hearing or determination of an appeal may authorise the correction of any clerical error in the record, and a copy of the corrected entry must be sent to the persons to whom a copy of the original entry was sent[23]. The production in any proceedings in any court of law of a document purporting to be certified by the clerk to be a true copy of a record of that valuation tribunal is, unless the contrary is proved, sufficient evidence of the document and of the facts it records[24].

1 'Clerk', in relation to an appeal, means the clerk of the relevant valuation tribunal: Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 2(1); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 2(1). For the meaning of 'appeal' for these purposes see para 151 note 1 ante; and for the meanings of 'relevant valuation tribunal' and 'valuation tribunal' see para 129 note 8 ante. As to valuation tribunals see para 147 et seq ante.

2 As to decisions of the valuation tribunal see para 159 ante.

3 Ie each order made under the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 34 or the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 34, as the case may be (see para 160 ante): see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 36(1); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 36(1).

4 Ie each certificate and revocation under the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 35 or the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 35, as the case may be (see para 162 post): see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 36(1); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 36(1).

5 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 36(1); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 36(1).

6 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 36(2); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 36(2).

7 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 36(2), Schedule; Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 36(2), Schedule. For the meaning of 'appellant' see para 152 note 2 ante.

8 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, Schedule; Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, Schedule.

9 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, Schedule; Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, Schedule.

10 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, Schedule; Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, Schedule.

As to who constitute parties to an appeal see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 2(3) and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 2(3), as the case may be; and paras 68 note 14, 134 note 26, 138 note 14, 141 note 20, 152 note 2 ante.

11 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, Schedule; Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, Schedule.

12 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, Schedule; Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, Schedule.

13 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, Schedule; Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, Schedule.

14 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, Schedule; Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, Schedule.

15 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, Schedule; Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, Schedule. As to certificates setting aside decisions of the tribunal see para 162 post.

16 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, Schedule; Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, Schedule. The text refers to a any revocation made under the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 35(7) or under the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 35(7), as the case may be (see para 162 post): see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, Schedule; and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, Schedule.

17 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 36(3); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 36(3).

18 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 36(4); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 36(4).

19 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 36(5); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 36(5).

20 As to what may be regarded as reasonable excuse in these circumstances see para 141 note 24 ante.

21 Ie conferred by the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 36(5) or the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 36(5), as the case may be (see the text and note 19 supra): see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 36(6); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 36(6).

22 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 36(6); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 36(6). As to the standard scale see para 70 note 11 ante.

23 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 36(7); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 36(7).

24 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 36(8); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 36(8). As to evidence in general see para 158 ante.

162. Review of decisions. A valuation tribunal[1] has power on written application by a party[2] to review or set aside by certificate of the presiding member any decision[3] on the grounds that[4]:

(1) the decision was wrongly made as a result of clerical error[5];

(2) a party did not appear and can show reasonable cause why he did not do so[6];

(3) the decision is affected by a decision of (or appeal from) the High Court or the Lands Tribunal[7] in relation to an appeal in respect of the hereditament[8] which was the subject of the valuation tribunal's decision[9].

Where the decision in question is the decision on an appeal against a completion notice[10], such an application may be made on the additional grounds[11] that new evidence (the existence of which could not have been ascertained by reasonably diligent

inquiry or could not have been foreseen) has become available since the conclusion of the proceedings to which the decision relates[12].

So far as is reasonably practicable, the valuation tribunal appointed to review a decision must consist of the same members as constituted the tribunal which took the decision[13].

If a valuation tribunal sets aside any decision by certificate in this way, it must revoke any order made in consequence of the decision and must order a rehearing or redetermination before either the same or a different tribunal[14]. The clerk[15] must as soon as reasonably practicable notify in writing the parties to the appeal of:

(a) a determination that the valuation tribunal will not undertake a review[16];

(b) the determination of the valuation tribunal, having undertaken such a review, that it will not set aside the decision concerned[17];

(c) the issue of any certificate setting aside a decision[18]; and

(d) the revocation of any order made in consequence of the decision which has been set aside[19].

Where the decision is the subject of both a review by the valuation tribunal and an appeal to the Lands Tribunal[20], and the appeal to the Lands Tribunal remains undetermined on the relevant day[21], the clerk must notify the Lands Tribunal as soon as reasonably practicable after the occurrence of the relevant event[22].

Where a valuation officer[23] applies to a valuation tribunal[24] for the review of a decision in consequence of which an order requiring the alteration of a list[25] was made[26], he must, at the same time or as soon as reasonably practicable thereafter, notify the authority concerned of the application[27].

1 Ie a valuation tribunal constituted as provided in the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 35(4) or the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 35(4), as the case may be (see the text and note 13 infra): see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 35(1); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 35(1). For the meaning of 'valuation tribunal' see para 129 note 8 ante. As to valuation tribunals see para 147 et seq ante.

2 Such an application may be dismissed if it is not made within the period of four weeks beginning on the day on which notice of the decision in question is given, whether that notice is given in accordance with the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 33(3) or the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 33(3), as the case may be (see para 159 ante) or given in accordance with the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 36(3) or the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 36(3), as the case may be (see para 161 ante): Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 35(3); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 35(3).

As to who constitute parties to an appeal see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 2(3) and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 2(3), as the case may be; and paras 68 note 14, 134 note 26, 138 note 14, 141 note 20, 152 note 2 ante. For the meaning of 'appeal' for these purposes see para 151 note 1 ante.

3 Ie except where an appeal against the decision in question has been determined by the Lands Tribunal (as to which see paras 165–167 post): Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 35(2); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 35(2).

4 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 35(1)(a); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 35(1)(a).

5 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 35(5)(a); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 35(5)(a).

6 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 35(5)(b); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 35(5)(b).

7 As to the Lands Tribunal see paras 165–167 post.

8 For the meaning of 'hereditament' see para 33 et seq ante.

9 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 35(5)(c); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 35(5)(c).

10 Ie except where an appeal against the decision in question has been determined by the Lands Tribunal (as to which see paras 165–167 post): Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 35(2); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 35(2). For the meaning of 'completion notice' see para 68 note 10 ante. As to completion notice appeals see para 68 ante.

11 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 35(1)(b); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 35(1)(b).

12 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 35(6); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 35(6).

13 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 35(4); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 35(4).

14 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 35(7); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 35(7).

15 'Clerk', in relation to an appeal, means the clerk of the relevant valuation tribunal: Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 2(1); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 2(1). For the meaning of 'relevant valuation tribunal' see para 129 note 8 ante.

16 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 35(8)(a); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 35(8)(a). The text refers to a review under the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 35(1) or the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 35(1), as the case may be (see the text and notes 1–11 supra): see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 35(8)(a); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 35(8)(a).

17 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 35(8)(b); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 35(8)(b).

18 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 35(8)(c); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 35(8)(c). The text refers to the issue of any certificate under the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 35(1) or the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 35(1), as the case may be (see the text and notes 1–11 supra): see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 35(8)(c); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 35(8)(c).

19 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 35(8)(d); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 35(8)(d). The text refers to the revocation of any order under the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 35(7) or the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 35(7), as the case may be (see the text and note 14 supra): see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 35(8)(d); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 35(8)(d).

20 As to appeals to the Lands Tribunal see paras 165–167 post.

21 For these purposes, 'relevant day' means the day on which the application is made under the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 35(1) or the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 35(1), as the case may be (see the text and notes 1–11 supra) or the day on which an event referred to in any of heads (a) to (d) in the text occurs: Non-Domestic Rating (Alteration of Lists

and Appeals) (England) Regulations 2005, SI 2005/659, reg 35(10); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 35(10).

22 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 35(9); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 35(9). For these purposes, 'relevant event', in relation to a relevant day (as to which see note 21 supra), means the event occurring on that day: Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 35(10); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 35(10).

23 For the meaning of 'valuation officer' see para 129 note 1 ante. As to valuation officers generally see para 6 ante.

24 Ie under the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 35 or the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 35, as the case may be (see the text and notes 1–22 supra): see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 39(1)(a); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 39(1)(a).

25 Ie the alteration of a local non-domestic rating list or the central non-domestic rating list compiled on or after 1 April 2005: see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 21; and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 21. As to local non-domestic rating lists see para 121 et seq ante; and as to central non-domestic rating lists see para 125 et seq ante. For the meaning of 'alteration' for these purposes see para 129 note 4 ante.

26 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 39(1)(a); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 39(1)(a).

27 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 39(1); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 39(1). For these purposes, the authority concerned is the relevant authority for whose area the list was compiled (where the application relates to the alteration of a local non-domestic rating list) and the Secretary of State (or the Welsh Ministers, as the case may be) in any other case: Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 39(2); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 39(2). For the meaning of 'relevant authority' see para 129 note 3 ante. As to the Secretary of State and the Welsh Ministers see para 3 ante.

163. Judicial review of decisions made by valuation tribunals. Decisions of valuation tribunals[1] may be judicially reviewed by the High Court[2], where there is no other suitable avenue of appeal[3]. By way of remedy, a quashing order may be granted if the tribunal acts without jurisdiction[4]; and where a tribunal refuses to hear or review a matter, it may be possible to have that refusal reviewed and a mandatory order granted[5].

The constitution and workings of valuation tribunals in England and Wales are subject to review and consideration by the Administrative Justice and Tribunals Council[6].

1 As to valuation tribunals see para 147 et seq ante.

2 As to the procedure for judicial review see ADMINISTRATIVE LAW vol 1(1) (2001 Reissue) paras 69 et seq, 159 et seq.

3 See *R v Oxfordshire Local Valuation Panel, ex p Oxford City Council* (1981) 79 LGR 432, [1981] RA 239 (in which it was held that an appeal to the Lands Tribunal from the local valuation court was more convenient where a breach of natural justice was alleged); *Boyd v South Staffordshire District Council Community Charges Registration Officer and Staffordshire and Shropshire Valuation and Community Charge Tribunal* [1992] RA 235.

Some of the cases cited in this paragraph were decided prior to the coming into force of the Local Government Finance Act 1988 and, therefore, must now be considered in relation to the non-domestic rating provisions in Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 164 et seq post). As to the historical development of rating law and the continuing relevance of the old case law to the current statutory regime see para 2 ante.

4 *R v Cardiff Justices, ex p Cardiff Corpn* [1962] 2 QB 436, sub nom *R v City of Cardiff Justices, ex p Cardiff City Council* [1962] 1 All ER 751; *R v Cheshire East Local Valuation Court, ex p Peasnall* [1961] RVR 199; and see *Allchin v Williamson (Valuation Officer)* [1966] RA 297, [1966] RVR 366, Lands Tribunal; *Wolverhampton Association of Ratepayers v Stamp (Valuation Officer)* (1977) 21 RRC 62, 246 Estates Gazette 751, Lands Tribunal; *R v Lands Tribunal, ex p City of London Corpn* [1981] 1 All ER 753, [1981] 1 WLR 985.

As to the grant of a quashing order (formerly known as an order of certiorari) see ADMINISTRATIVE LAW vol 1(1) (2001 Reissue) para 123 et seq.

5 *R v Bedminster Union* (1876) 1 QBD 503 (refusal by an assessment committee to determine an objection). As to delay see *R v South West Durham Assessment Committee* (1928) 8 R & IT 39.

As to the grant of a mandatory order (formerly known as an order of mandamus) to enforce statutory rights and duties generally see ADMINISTRATIVE LAW vol 1(1) (2001 Reissue) para 133 et seq.

6 See the Tribunals, Courts and Enforcement Act 2007 s 44, Sch 7; the Administrative Justice and Tribunals Council (Listed Tribunals) (Wales) Order 2007, SI 2007/2876, art 2, Schedule; and the Administrative Justice and Tribunals Council (Listed Tribunals) Order 2007, SI 2007/2951, art 2. As to the Administrative Justice and Tribunals Council see ADMINISTRATIVE LAW.

D. ARBITRATION

164. Reference to arbitration. Where, at any time before the beginning of a valuation tribunal hearing[1] or the consideration by such a tribunal of written representations[2], it is so agreed in writing between the persons who, if a dispute were to be the subject of an appeal to the tribunal, would be the parties to the appeal[3], the question must be referred to arbitration[4].

In any such arbitration, the award may include any order which could have been made by the valuation tribunal in relation to the question[5]; and, pursuant to such an order, the valuation officer[6] must alter the list concerned[7] accordingly and attend to any ancillary matter provided for in the order (such as the repayment of an amount, or the allowance of an amount by way of deduction against a sum due)[8].

1 As to valuation tribunals see para 147 et seq ante; and as to hearings before them see para 151 et seq ante. For the meaning of 'valuation tribunal' see para 129 note 8 ante.

2 As to the written representations procedure see para 154 ante.

3 As to who constitute parties to an appeal see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 2(3) and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 2(3), as the case may be; and paras 68 note 14, 134 note 26, 138 note 14, 141 note 20, 152 note 2 ante. For the meaning of 'appeal' for these purposes see para 151 note 1 ante.

4 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 38(1); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 38(1).

5 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 38(2); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 38(2).

6 For the meaning of 'valuation officer' see para 129 note 1 ante. As to valuation officers generally see para 6 ante.

7 Ie a local non-domestic rating list or the central non-domestic rating list compiled on or after 1 April 2005: see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 21; and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 21. As to local non-domestic rating lists see para 121 et seq ante; and as to central non-domestic rating lists see para 125 et seq ante. For the meaning of 'alter' for these purposes see para 129 note 4 ante.

8 See the Local Government Finance Act 1988 s 136, Sch 11 para 9 (amended by the Local Government Finance Act 1992 s 117(1), Sch 13 para 88(8)); applied by the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 38(2) and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 38(2).

As from a day to be appointed under the Local Government and Public Involvement in Health Act 2007 s 245(5), the Local Government Finance Act 1988 Sch 11 para 9 (as amended) is further amended so that it reflects the establishment of separate Valuation Tribunals for England and for Wales (as to which see para 147 ante): see Sch 11 para 9 (as so amended; prospectively further amended by the Local Government and Public Involvement in Health Act 2007 s 219(1), Sch 15 paras 1, 12). However, at the date at which this volume states the law, no such day had been appointed.

E. APPEAL FROM THE VALUATION TRIBUNAL TO THE LANDS TRIBUNAL

165. Appeal to the Lands Tribunal in respect of a valuation tribunal's decision or order. An appeal lies to the Lands Tribunal[1] in respect of a decision or order which is given or made by a valuation tribunal[2] on:

(1) an appeal arising from a disagreement between a valuation officer[3] and a proposer[4] as to the validity of the proposal[5] to alter[6] a list[7];
(2) an appeal arising from a disagreement as to whether the proposal to alter a list is well founded[8]; or
(3) an appeal against a completion notice[9].

Such an appeal may be dismissed if it is not made within four weeks of the date on which notice is given of the order or decision that is the subject-matter of the appeal[10]. However, if a tribunal's decision has been the subject of an application for review[11], which has been made within four weeks of the date on which notice is given of the decision that is the subject-matter of the appeal, and if notice is given, either that the application for review is unsuccessful[12], or that a review has been undertaken and the decision still stands[13], then the appeal to the Lands Tribunal may be dismissed if it is not made within four weeks of the service of either notice to that effect[14].

An appeal to the Lands Tribunal lies at the instance of any party who appeared at the hearing[15] or, if the appeal was disposed of by written representations[16], by any party making those representations[17]. An appeal lies also at the instance of any party whose application for review, on the ground that he did not appear before the tribunal and can show reasonable cause why he did not do so, has resulted in the tribunal refusing to set aside the decision concerned[18]. Subject to the express statutory provisions which set out the circumstances in which an appeal will lie[19], such an appeal will not lie merely on the grounds of irregularity in the conduct of the proceedings (or of a mistake in the admission of evidence)[20], but only after a final decision of the valuation tribunal[21].

Where a valuation officer appeals to the Lands Tribunal under the statutory provisions[22] against a decision in consequence of which an order requiring the alteration of a list was made (or if he appeals against such an order)[23], he must, at the same time or as soon as reasonably practicable thereafter, notify the authority concerned[24] of the appeal[25]. Where a valuation officer appeals to the Lands Tribunal in respect of such a decision or order, or where he receives notice of such an appeal instituted by another party, he must, at the same time or as soon as reasonably practicable thereafter, notify the clerk to the relevant valuation tribunal[26] of the appeal[27].

Where, in relation to a decision or order made on an appeal against a completion notice, an authority appeals to the Lands Tribunal[28], or receives notice of such an appeal instituted by another party it must, at the same time, or as soon as reasonably practicable thereafter, notify the clerk to the relevant valuation tribunal of the appeal[29].

1 As to the procedure that applies before the Lands Tribunal in relation to rating appeals see para 166 post. As to the constitution of, and the procedure before, the Lands Tribunal generally see COMPULSORY ACQUISITION OF LAND vol 8(1) (2003 Reissue) para 202 et seq. See also the *Lands Tribunal Practice Directions* (May 2006), issued by the President of the Lands Tribunal and available at the Lands Tribunal's website, whose address, at the date at which this volume states the law, is *http://www.landstribunal.gov.uk*.
2 As to valuation tribunals see para 147 et seq ante; and as to hearings before them see para 151 et seq ante. For the meaning of 'valuation tribunal' see para 129 note 8 ante.
3 For the meaning of 'valuation officer' see para 129 note 1 ante. As to valuation officers generally see para 6 ante.
4 For the meaning of 'proposer' for these purposes see para 129 note 8 ante.
5 For the meaning of 'proposal' for these purposes see para 129 note 8 ante.
6 For the meaning of 'alter' for these purposes see para 129 note 4 ante.
7 Ie an appeal under the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 8 (as amended) or the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 8 (as amended), as the case may be (see

para 134 ante): Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 37(1)(a); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 37(1)(a). For these purposes, 'list' means a local non-domestic rating list or the central non-domestic rating list compiled on or after 1 April 2005: Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 21; Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 21. As to local non-domestic rating lists see para 121 et seq ante; and as to central non-domestic rating lists see para 125 et seq ante.

8 Ie an appeal under the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 13 or the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 13 (as amended), as the case may be (see para 138 ante): Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 37(1)(a); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 37(1)(a).

9 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 37(1)(b); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 37(1)(b). For the meaning of 'completion notice' see para 68 note 10 ante. As to appeals against a completion notice see para 68 ante.

10 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 37(3); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 37(3). Under general procedures, the time for appeal may be extended by the registrar of the Lands Tribunal: see para 166 post.

11 Ie under the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 35(1) or under the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 35(1), as the case may be (see para 162 ante): see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 37(4)(a); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 37(4)(a).

12 Ie if notice is given as mentioned in the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 35(8)(a) or under the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 35(8)(a), as the case may be (see para 162 ante): Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 37(4)(a); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 37(4)(a).

13 Ie if notice is given as mentioned in the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 35(8)(b) or under the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 35(8)(b), as the case may be (see para 162 ante): Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 37(4)(b); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 37(4)(b).

14 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 37(4); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 37(4).

15 As to who constitute parties to an appeal see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 2(3) and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 2(3), as the case may be; and paras 68 note 14, 134 note 26, 138 note 14, 141 note 20, 152 note 2 ante. For the meaning of 'appeal' for these purposes see para 151 note 1 ante.

16 As to the written representations procedure see para 154 ante.

17 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 37(2)(a); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 37(2)(a). A person who did not appear personally or by representative may not appeal: *Haslam v Carr (Valuation Officer)* (1950) 43 R & IT 786, Lands Tribunal, decided under similar provisions of previous legislation. See also *Electricity Supply Nominees Ltd v Sharma (Valuation Officer)* [1985] RVR 188, [1985] 2 EGLR 173, CA, where a rating authority was held to have appeared before a local valuation court when a representative had notified the clerk of his presence and sat through the hearing.

The cases cited in this paragraph were decided prior to the coming into force of the Local Government Finance Act 1988 and related secondary legislation and, therefore, must now be considered in relation to the non-domestic rating provisions in Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 166 et seq post). As to the historical development of rating law and the continuing relevance of the old case law to the current statutory regime see para 2 ante.

18 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 37(2)(b); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005,

SI 2005/758, reg 37(2)(b). The text refers to a case involving a party whose application for the review of the decision on the ground set out in the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 35(5)(b) or under the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 35(5)(b), as the case may be (see para 162 ante), has been determined by the valuation tribunal as mentioned in the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 35(8)(b) or under the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 35(8)(b), as the case may be (see para 162 ante): see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 37(2)(b); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 37(2)(b).

19 Ie subject to the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 37 or the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 37, as the case may be (see the text and notes 1–18 supra).

20 See *Hulme v Bucklow Area Assessment Committee* [1940] 2 KB 255, [1940] 3 All ER 79, DC; *Manchester Assessment Committee v Heyland Ltd* (1943) 14 DRA 121, R & IT 82, DC (the proper remedy in cases of irregularity is by way of mandamus (now a mandatory order); if evidence was improperly admitted or excluded, a party may appeal against the decision and have the case reheard on proper evidence). These cases were decided under similar provisions of previous legislation giving a right of appeal from an assessment committee to quarter sessions. See also *Allchin v Williamson (Valuation Officer)* [1966] RA 297, [1966] RVR 366 Lands Tribunal; *Wolverhampton Association of Ratepayers v Stamp (Valuation Officer)* (1977) 21 RRC 62, 246 Estates Gazette 751, Lands Tribunal. In *Pratt v North-West Norfolk Assessment Committee* [1945] 2 All ER 78, DC (revsd on another point [1946] KB 93, CA; affd [1947] AC 635, HL), a distinction was drawn between a procedural irregularity and a fundamental invalidity in the proceedings.

21 See *Oswestry Corpn v Hudd (Valuation Officer)* [1966] 1 All ER 490, [1966] 1 WLR 363, CA.

22 Ie under the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 37 or the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 37, as the case may be (see the text and notes 1–18 supra): see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 39(1)(b); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 39(1)(b).

23 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 39(1)(b); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 39(1)(b).

24 For these purposes, the authority concerned is the relevant authority for whose area the list was compiled (where the appeal relates to the alteration of a local non-domestic rating list) and the Secretary of State (or the Welsh Ministers, as the case may be) in any other case: Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 39(2); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 39(2). For the meaning of 'relevant authority' see para 129 note 3 ante. As to the Secretary of State and the Welsh Ministers see para 3 ante.

25 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 39(1); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 39(1).

26 'Clerk', in relation to an appeal, means the clerk of the relevant valuation tribunal: Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 2(1); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 2(1). For the meaning of 'relevant valuation tribunal' see para 129 note 8 ante.

27 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 39(3); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 39(3).

28 Ie under the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 37 or the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 37, as the case may be (see the text and notes 1–18 supra): see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 39(4); and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 39(4).

29 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 39(4); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 39(4).

166. Procedure on rating appeals before the Lands Tribunal. An appeal against a decision of a valuation tribunal which lies to the Lands Tribunal (a 'rating appeal')[1] is made by sending to the registrar[2] a written notice indicating an intention to

appeal, so that it is received by the registrar[3] within 28 days of the date on which the decision appealed against (the 'disputed decision') was sent to the applicant, or within such other time as is prescribed by the enactment conferring the right to appeal[4]. The notice of appeal must state that it is a notice of appeal and must contain[5]:

(1) the name and address of the appellant[6];

(2) the date and any reference number of the disputed decision and the name and address of the authority[7];

(3) the grounds of appeal[8];

(4) where the appellant is represented, the name, address and profession of the representative[9]; and

(5) the signature of the appellant or his representative and the date the notice was signed[10].

Where the appeal relates to a rating appeal, the appellant must attach to the notice of appeal a copy of the disputed decision and a copy of the proposal or determination that was the subject of the proceedings which led to the disputed decision[11]. The appellant must deliver or send the notice of appeal to the Lands Tribunal together with sufficient copies for service upon each of the parties to the proceedings which led to the disputed decision and upon the authority, and where appropriate, the valuation officer[12].

Upon receiving a notice of appeal, the registrar must: (a) enter particulars of the appeal in the register of appeals[13]; (b) serve a copy of the notice on the parties to the proceedings which led to the disputed decision (other than the appellant), on the authority and, where applicable, on the valuation officer, and inform the appellant of the date on which this was done[14]; and (c) inform the appellant and all persons on whom a copy of the notice of appeal is served of the number of the appeal entered on the register which is to constitute the title of the appeal[15].

If a person on whom a copy of the notice of appeal is served intends to respond, he must give written notice of his intention, signed and dated, stating[16]:

(i) whether he intends to respond separately or jointly with some other person[17];

(ii) the grounds on which he opposes the appeal[18]; and

(iii) an address for service of notices and other documents on him[19].

The notice of intention to respond must be served on the registrar and the appellant within 28 days of the date of service of the copy of the notice of appeal[20]. Where the registrar receives more than one notice of intention to respond, he must serve a copy of each such notice on all parties other than the appellant[21].

Within 28 days of service of a notice of intention to respond, the appellant must serve on the respondent[22] from whom it is received a statement of his case, including full particulars of the facts relied upon and any points of law on which he intends to rely at the hearing[23]. Within 28 days of service of the appellant's statement, a respondent must serve on the appellant a reply stating his case including full particulars of the facts relied upon and any points of law on which he intends to rely at the hearing[24]. Where a party serves such a statement or such a reply, he must at the same time send a copy to the registrar with confirmation that the statement or reply has been duly served[25]; and a statement or reply duly served must be accompanied by[26]:

(A) every valuation which the party proposes to put in evidence (which must include all particulars and computations in support of the valuation), or a statement of the value or values which the parties have agreed[27]; and

(B) either full particulars of any comparable properties and transactions to which the party intends to refer at the hearing in support of his case and a statement of the purpose for which the comparison is made[28], or a statement that no comparable properties or transactions will be referred to[29].

If at the hearing of an appeal a party seeks to rely upon any valuation or other document which appears to the Lands Tribunal not to have been duly served[30], it may adjourn the hearing on such terms as to costs or otherwise as it thinks fit[31].

Thereafter, the general procedure before the Lands Tribunal, which is set out elsewhere in this work[32], applies[33].

1 For these purposes, 'appeal' means an appeal against a determination of any question by an authority in respect of whose decision an appeal lies to the Lands Tribunal: Lands Tribunal Rules 1996, SI 1996/1022, r 2(1) (definition substituted by SI 1997/1965). 'Rating appeal' means an appeal from the decision of a valuation tribunal in relation to non-domestic rating: Lands Tribunal Rules 1996, SI 1996/1022, r 2(1). As to the Lands Tribunal's jurisdiction in relation to rating appeals see para 165 ante. As to valuation tribunals see para 147 et seq ante; and as to hearings before them see para 151 et seq ante.

The appeals procedure which is set out in the Lands Tribunal Rules 1996, SI 1996/1022, Pt III (rr 6–8) (as amended) is not restricted to appeals against decisions of valuation tribunals; the same framework applies to other appeals that may lie eg from certain decisions and assessments of HM Revenue and Customs in which the question at issue is the value of any land (see eg the Taxes Management Act 1970 s 46D (as added and amended)). However, the procedure that is set out in the text reflects the particular adaptations that are made to accommodate rating appeals. It does not reflect, for instance, the particular provisions that have been added to the Lands Tribunal Rules 1996, SI 1996/1022, Pt III (as amended) in order to accommodate appeals under the Commonhold and Leasehold Reform Act 2002 s 175 against a decision of the Leasehold Valuation Tribunal (as to which see LANDLORD AND TENANT vol 27(1) (2006 Reissue) para 72) or appeals under the Housing Act 2004 s 231 against a decision of the Residential Property Tribunal (as to which see HOUSING vol 22 (2006 Reissue) para 199). Accordingly, for information on the procedure that applies in the case of appeals other than rating appeals, reference should be made elsewhere in the work.

As to the constitution of, and the procedure before, the Lands Tribunal generally see COMPULSORY ACQUISITION OF LAND vol 8(1) (2003 Reissue) para 202 et seq. See also the *Lands Tribunal Practice Directions* (May 2006), issued by the President of the Lands Tribunal and available at the Lands Tribunal's website, whose address, at the date at which this volume states the law, is *http://www.landstribunal.gov.uk*.

2 'Registrar' means the registrar of the Lands Tribunal or, as respects any powers or functions of the registrar, an officer of the Lands Tribunal authorised by the Lord Chancellor, after consulting the Lord Chief Justice, to exercise those powers or functions: Lands Tribunal Rules 1996, SI 1996/1022, r 2(1) (definition amended by SI 2006/680). As to the registrar see COMPULSORY ACQUISITION OF LAND vol 8(1) (2003 Reissue) para 199 et seq.

3 Lands Tribunal Rules 1996, SI 1996/1022, r 6(1) (substituted by SI 1997/1965).

4 Lands Tribunal Rules 1996, SI 1996/1022, r 6(1)(a) (as substituted: see note 3 supra). The time appointed for doing any act or taking any steps in relation to any Lands Tribunal proceedings may be extended by the registrar on application to him, upon such terms as he thinks fit: see COMPULSORY ACQUISITION OF LAND vol 8(1) (2003 Reissue) para 214.

5 Ibid r 6(3). Where the notice of appeal referred to in the text does not conform with the requirements set out in heads (1) to (5) in the text, the appellant must, within such time as the registrar may direct, send to the registrar a notice which does so conform: r 6(2).

6 Ibid r 6(3)(a).

7 Ibid r 6(3)(b). 'Authority' means the person or body in respect of whose decision an appeal is brought: r 2(1).

8 Ibid r 6(3)(c).

9 Ibid r 6(3)(d).

10 Ibid r 6(3)(e).

11 Ibid r 6(4) (substituted by SI 1997/1965; amended by SI 2003/2945).

12 Lands Tribunal Rules 1996, SI 1996/1022, r 6(5). 'Valuation officer' means a valuation officer appointed under the Local Government Finance Act 1988 s 61 (see para 6 ante) or any officer authorised by him in writing to act on his behalf: Lands Tribunal Rules 1996, SI 1996/1022, r 2(1).

The fee to be taken in respect of proceedings before the Lands Tribunal, on lodging a notice of appeal under r 6 (as amended) from the decision of a tribunal empowered to hear rating appeals, is 1% of rateable value, subject to a minimum fee of £50 and a maximum fee of £5,000: see the Lands Tribunal (Fees) Rules 1996, SI 1996/1021, r 3, Schedule. As to rateable value see para 86 et seq ante.

13 Lands Tribunal Rules 1996, SI 1996/1022, r 6(6)(a) (amended by SI 1997/1965).

14 Lands Tribunal Rules 1996, SI 1996/1022, r 6(6)(b).

15 Ibid r 6(6)(c).

16 Ibid r 7(1).

17 Ibid r 7(1)(a).

18 Ibid r 7(1)(b).

19 Ibid r 7(1)(c).
20 Ibid r 7(2) (amended by SI 2006/880). As to time limits see note 4 supra.
21 Lands Tribunal Rules 1996, SI 1996/1022, r 7(3). 'Party', in relation to an appeal, means the appellant, the authority and any person who has served notice of intention to respond in accordance with r 7 (as amended): r 2(1).
22 Ie a person giving notice of intention to respond: see ibid r 8(1).
23 Ibid r 8(2) (amended by SI 2006/880). As to time limits see note 4 supra.
24 Lands Tribunal Rules 1996, SI 1996/1022, r 8(3) (amended by SI 2006/880). Where a party receives from the registrar a copy of a notice of intention to respond from another party in accordance with the Lands Tribunal Rules 1996, SI 1996/1022, r 7(3) (see the text and note 21 supra) he must, within 28 days of service of such notice on him, send to that other party a copy of the reply referred to in r 8(3) (as amended): r 8(4) (amended by SI 2006/880). As to time limits see note 4 supra.
25 Lands Tribunal Rules 1996, SI 1996/1022, r 8(5). The text refers to confirmation that the statement or reply has been served in accordance with r 8 (as amended): see r 8(5).
26 Ibid r 8(6).
27 Ibid r 8(6)(a).
28 Ibid r 8(6)(b)(i).
29 Ibid r 8(6)(b)(ii).
30 Ie not to have been served in accordance with ibid r 8 (as amended): see r 8(7).
31 Ibid r 8(7).
32 See ibid Pt VIII (rr 27–56) (as amended); and COMPULSORY ACQUISITION OF LAND vol 8(1) (2003 Reissue) para 219 et seq.
33 The fee to be taken in respect of proceedings before the Lands Tribunal, on the hearing of an appeal from the decision of a tribunal empowered to hear rating appeals, is 5% of rateable value as determined in the final order of the tribunal, subject to a minimum fee of £100 and a maximum fee of £5,000: see the Lands Tribunal (Fees) Rules 1996, SI 1996/1021, r 3, Schedule.

167. Powers of the Lands Tribunal on hearing a rating appeal. The Lands Tribunal[1], on appeal against a decision of a valuation tribunal[2], may confirm, vary, set aside, revoke or remit the decision or order of the valuation tribunal, and may make any order the tribunal could have made[3]. Valuation officers[4] must act in accordance with any order made by the Lands Tribunal[5]; and, pursuant to such an order, they must alter the list concerned[6] accordingly and attend to any ancillary matter provided for in the order (such as the repayment of an amount, or the allowance of an amount by way of deduction against a sum due)[7].

Under the General Rate Act 1967 (now repealed)[8], the tribunal could not increase the assessment of a hereditament above the figure decided by the local valuation court where only the ratepayer appealed, or decide a contention which was not raised by the proposal, and these principles appear to have survived under the current legislation[9].

The Lands Tribunal is entitled to say that it will not overrule the decision of a local valuation court unless it is satisfied by the appellant that there is something wrong as a matter of fact in the court's findings[10]. It is reluctant, in appeals involving a few pounds only, to interfere with a decision given on the same evidence by a local valuation court unless that court made a mistake of law, or applied a wrong principle of valuation, or the decision was against the weight of the evidence[11].

The Lands Tribunal is not an administrative agency with a general duty to correct errors, clerical or otherwise, in the valuation list and it has no power to amend the decision of the local valuation court except by determining an appeal on the evidence before it[12].

The Lands Tribunal has held that it is entitled to rely on its own experience of valuation[13].

1 As to the constitution of, and the procedure before, the Lands Tribunal generally see COMPULSORY ACQUISITION OF LAND vol 8(1) (2003 Reissue) para 202 et seq.
2 For the meaning of 'valuation tribunal' see para 129 note 8 ante. As to the Lands Tribunal's jurisdiction in relation to rating appeals see para 165 ante; and as to the procedure that applies before the Lands Tribunal in relation to rating appeals see para 166 ante. As to valuation tribunals see para 147 et seq ante; and as to hearings before them see para 151 et seq ante.

3 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 37(5); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 37(5).

4 For the meaning of 'valuation officer' see para 129 note 1 ante. As to valuation officers generally see para 6 ante.

5 Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 37(6); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 37(6).

6 Ie a local non-domestic rating list or the central non-domestic rating list compiled on or after 1 April 2005: see the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 21; and the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 21. As to local non-domestic rating lists see para 121 et seq ante; and as to central non-domestic rating lists see para 125 et seq ante. For the meaning of 'alter' for these purposes see para 129 note 4 ante.

In respect of any alteration directed to be made by a tribunal, the local non-domestic rating list must state whether the direction was given by a valuation tribunal (as to which see para 160 ante) or by the Lands Tribunal: see the Non-Domestic Rating (Miscellaneous Provisions) Regulations 1989, SI 1989/1060, reg 3; and para 123 ante.

7 See the Local Government Finance Act 1988 s 136, Sch 11 para 9 (amended by the Local Government Finance Act 1992 s 117(1), Sch 13 para 88(8)); applied by the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 37(6); Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, SI 2005/758, reg 37(6).

As from a day to be appointed under the Local Government and Public Involvement in Health Act 2007 s 245(5), the Local Government Finance Act 1988 Sch 11 para 9 (as amended) is further amended so that it reflects the establishment of separate Valuation Tribunals for England and for Wales (as to which see para 147 ante): see Sch 11 para 9 (as so amended; prospectively further amended by the Local Government and Public Involvement in Health Act 2007 s 219(1), Sch 15 paras 1, 12). However, at the date at which this volume states the law, no such day had been appointed.

8 As to the history of the rating legislation see para 2 ante.

9 See para 159 ante. For cases on these points see those cited in para 159 notes 16–17 ante.

10 *Sole v Henning (Valuation Officer)* [1959] 3 All ER 398, [1959] 1 WLR 769, CA; and see *Welwyn Department Stores Ltd v Welwyn Garden City UDC and Pote (Valuation Officer)* (1959) 4 RRC 227, [1959] JPL 438, Lands Tribunal; *Gooderham (Valuation Officer) v Wimborne and Cranbourne RDC and McNeil* (1964) 10 RRC 367, Lands Tribunal; *Priest (Valuation Officer) v Hicks* (1966) 12 RRC 338, Lands Tribunal; *Wilkes (Valuation Officer) v Pilcher* (1966) 12 RRC 365, [1967] RCN 44, Lands Tribunal; *Davis v Crosby (Valuation Officer)* [1968] RA 526, [1968] JPL 236, Lands Tribunal.

The cases cited in this paragraph were decided prior to the coming into force of the Local Government Finance Act 1988 and, therefore, must now be considered in relation to the non-domestic rating provisions in Pt III (ss 41–67) (as amended) (see paras 7 et seq ante, 170 et seq post). As to the continuing relevance of the old case law to the current statutory regime see para 2 ante.

11 *Payne (Valuation Officer) v Ireland and Ireland* (1957) 50 R & IT 379, 28 DRA 114, Lands Tribunal; cf *Rees (Valuation Officer) v Hargreaves* (1957) 50 R & IT 642, 28 DRA 220, Lands Tribunal; *Rees (Valuation Officer) v Johnson* (1957) 50 R & IT 641, 28 DRA 222, Lands Tribunal.

12 *Wilkes (Valuation Officer) v Pilcher* (1966) 12 RRC 365, [1967] RCN 44, Lands Tribunal.

13 *Hardiman (Valuation Officer) v Crystal Palace Football and Athletic Club Ltd* (1955) 48 R & IT 91, Lands Tribunal; and see *R v Westminster City Assessment Committee, ex p Grosvenor House (Park Lane) Ltd* [1941] 1 KB 53 at 69, [1940] 4 All ER 132 at 143, CA, per du Parcq LJ; *City of Sheffield v Meadow Dairy Co Ltd* (1958) 2 RRC 395 at 401–402, CA, per Lord Evershed MR; *Morecombe and Heysham Corpn v Robinson (Valuation Officer)* [1961] 1 All ER 721, [1961] 1 WLR 373, CA.

F. APPEAL TO THE COURT OF APPEAL

168. Appeal by case stated. A decision of the Lands Tribunal is final[1], except that any person who is aggrieved[2] by its decision as being erroneous in point of law[3] may, within such time as may be limited by rules of court, in England and Wales appeal to the Court of Appeal and otherwise require the tribunal to state and sign a case for the decision of the court[4]. Any documents referred to should be appended to the case[5].

1 See the Lands Tribunal Act 1949 s 3(4); and COMPULSORY ACQUISITION OF LAND vol 8(1) (2003 Reissue) para 233.

As to the constitution of, and the procedure before, the Lands Tribunal generally see COMPULSORY ACQUISITION OF LAND vol 8(1) (2003 Reissue) para 202 et seq. As to the Lands Tribunal's jurisdiction in relation to rating appeals see para 165 et seq ante.

2 As to persons aggrieved see ADMINISTRATIVE LAW vol 1(1) (2001 Reissue) para 66. Where the decision of the Lands Tribunal is given on a review by way of appeal of the previous decision of another person, that person (if dissatisfied with the decision of the Lands Tribunal) is also to be treated for this purpose as a person aggrieved thereby: see the Lands Tribunal Act 1949 s 3(4) proviso (amended by the Civil Procedure (Modification of Enactments) Order 2001, SI 2000/941); and COMPULSORY ACQUISITION OF LAND vol 8(1) (2003 Reissue) para 233.

3 This includes an allegation that the tribunal had acted in breach of natural justice: *Aquilina and Carberry v Havering London Borough Council* [1992] RVR 251, (1993) 66 P & CR 39, CA.

4 See the Lands Tribunal Act 1949 s 3(4) proviso, (11)(a) (s 3(4) proviso as amended: see note 2 supra). As to the procedure on such an appeal to the Court of Appeal see CPR 52; *Practice Direction—Appeals PD52; Lands Tribunal Practice Directions* (May 2006) para 23; and COMPULSORY ACQUISITION OF LAND vol 8(1) (2003 Reissue) para 233.

A decision by the tribunal during the hearing on whether certain evidence should be produced was held to be a final decision on which a case could be required to be stated: *R v Lands Tribunal, ex p City of London Corpn* [1981] 1 All ER 753, [1981] WLR 985. The Court of Appeal has jurisdiction to decide a rating appeal on case stated on points raised before the tribunal and referred to but not expressly determined, where their rejection must be inferred from the question posed by the tribunal for decision by the court: *Duckworth (Valuation Officer) v Guiness Importers Ltd* (1960) 53 R & IT 313, [1960] 1 Lloyd's Rep 461, CA. See also *Trocette Property Co Ltd v GLC and Southwark London Borough Council* [1974] RVR 306, 28 P & CR 408, CA; *Camden London Borough Council v Civil Aviation Authority and Langford (Valuation Officer)* [1980] RA 369 at 379, CA, per Megaw LJ.

5 See *Bailey v Bognor Regis UDC* (1957) 1 RRC 288, 50 R & IT 110, CA.

169. Powers and procedure of the Court of Appeal. On the hearing of a case stated by the Lands Tribunal[1], the Court of Appeal, if it thinks fit, may amend the case[2] or order it to be sent back to the Lands Tribunal for amendment[3]. The court may only draw inferences of fact when it holds that the tribunal has misdirected itself[4]. The general powers of the Court of Appeal, so far as applicable, apply to such a case stated[5].

The Court of Appeal may not disturb a conclusion of fact drawn by the Lands Tribunal unless either: (1) the tribunal has misunderstood or misinterpreted the law; or (2) the conclusion is one which, on the evidence or on the primary facts found by the tribunal, a person who properly understood the law could not reasonably entertain; in many cases, however, reasonable persons properly understanding the law may reach different conclusions, and in such cases the Court of Appeal does not interfere[6]. So long as nothing is excluded from consideration which by law ought to be included, or included which by law ought to be excluded, the decision of the Lands Tribunal is final on the quantum of an assessment and on the mode of valuation[7].

The Court of Appeal will not allow an appeal without having heard it, even though the parties have agreed that the appeal should be allowed on certain terms[8].

1 As to appeals by case stated see para 168 ante. As to the constitution of, and the procedure before, the Lands Tribunal generally see COMPULSORY ACQUISITION OF LAND vol 8(1) (2003 Reissue) para 202 et seq. As to the Lands Tribunal's jurisdiction in relation to rating appeals see para 165 et seq ante.

2 See e g *Bailey v Bognor Regis UDC* (1957) 1 RRC 288, 50 R & IT 110, CA. The power should be used sparingly: *Bailey v Bognor Regis UDC* supra.

3 See CPR 52.10; and COMPULSORY ACQUISITION OF LAND vol 8(1) (2003 Reissue) para 234. The Court of Appeal may also remit a case to the tribunal for amplification of the grounds of the decision: see *Hake and Wright v Chandler (Valuation Officer)* (1958) 3 RRC 219, 51 R & IT 538, CA; *Magdalen College, Oxford University v Howard (Valuation Officer) and Oxford City Council* [1961] RVR 22, CA.

4 *Chivers & Sons Ltd v Cambridge County Council* [1957] 2 QB 68, [1957] 1 All ER 882, CA; *Bailey (Stoke-on-Trent Revenue Officer) v Potteries Electric Traction Co Ltd* [1931] 1 KB 385 at 481, CA, per Scrutton LJ (affd [1931] AC 151); *Working Men's Club and Institute Union Ltd v Swansea Corpn* [1959] 3 All ER 769, [1959] 1 WLR 1197, CA.

5 See COMPULSORY ACQUISITION OF LAND vol 8(1) (2003 Reissue) para 234. Although the Court of Appeal has ruled that fresh evidence may not be adduced before it (*Routh Trustees v Central Land Board* [1960] 2 All ER 436, [1960] 1 WLR 737, CA) it has invited the parties to agree a statement of facts for

a resumed hearing (*Jewish Blind Society Trustees v Henning (Valuation Officer)* [1961] 1 All ER 47, [1961] 1 WLR 24, CA; *Farmers' Machinery Syndicate (11th Hampshire) v Shaw (Valuation Officer)* [1961] 1 All ER 285, [1961] 1 WLR 393, CA). See also *Ellesmere Port and Neston Borough Council v Shell UK Ltd* [1980] 1 All ER 383 at 391, [1980] 1 WLR 205 at 216–217, CA, per Megaw LJ.

6 *Farmer v Cotton's Trustees* [1915] AC 922 at 939, HL, per Lord Sumner; *Bottomley (West Derby Revenue Officer) v West Derby Assessment Committee and Liverpool Grain Storage and Transit Co Ltd* [1932] 1 KB 40 at 110–112, CA, per Greer LJ; *Ritz Cleaners Ltd v West Middlesex Assessment Committee* [1937] 2 KB 642, [1937] 2 All ER 368, CA; *British Launderers' Research Association v Hendon Borough Rating Authority* [1949] 1 KB 462, [1949] 1 All ER 21; *Cardiff Rating Authority and Cardiff Assessment Committee v Guest Keen Baldwin's Iron and Steel Co Ltd* [1949] 1 KB 385, [1949] 1 All ER 27, CA; *British Portland Cement Manufacturers Ltd v Thurrock UDC* (1950) 43 R & IT 841, (1950) 114 JP 580, CA; *Burton (Valuation Officer) v Ogdens (Brighton) Ltd* (1952) 45 R & IT 470, CA; *Edwards (Inspector of Taxes) v Bairstow* [1956] AC 14, [1955] 3 All ER 48, HL; *BP Refinery (Kent) Ltd v Walker (Valuation Officer)* [1957] 2 QB 305, [1957] 1 All ER 700, CA; *W Collier Ltd v Fielding (Valuation Officer)* [1958] 1 All ER 694, [1958] 1 WLR 323, CA; *London Transport Executive v Betts (Valuation Officer)* [1959] AC 213 at 237–238, [1958] 2 All ER 636 at 649, HL, per Lord Keith of Avonholm; *Ffestiniog Rly Co v Central Electricity Generating Board* [1962] RVR 202 at 207, CA Lands Tribunal, per Pearson LJ. For examples of pure questions of fact see also *Peche v Wilkins (Valuation Officer)* (1959) 4 RRC 49, 52 R & IT 86, CA; *Taylor v Hughes (Valuation Officer)* (1959) 52 R & IT 513, 30 DRA 888, CA; *Clymo (Valuation Officer) v Shell-Mex and BP Ltd* [1963] RA 191, CA.

7 *North and South Western Junction Rly Co v Brentford Union Assessment Committee* (1888) 13 App Cas 592, 51 JP 772, HL; *Mersey Docks and Harbour Board v Birkenhead Assessment Committee* [1901] AC 175, HL; *Consett Iron Co Ltd v Assessment Committee for No 5 or North-Western Area of County of Durham* [1931] AC 396, 100 LJKB 242, HL; *Cardiff Rating Authority and Cardiff Assessment Committee v Guest Keen Baldwin's Iron and Steel Co Ltd* [1949] 1 KB 385, [1949] 1 All ER 27, CA. An arithmetical error may, however, be corrected: *Western Counties Brick and Tile Co Ltd v Exeter Assessment Committee* (1931) 14 R & IT 166.

For a case in which the Court of Appeal allowed the appeal but found it unnecessary to remit the matter to the Lands Tribunal see *Hoare (Valuation Officer) v National Trust* [1999] 1 EGLR 155, [1998] RA 391, CA.

8 *Lloyd (Valuation Officer) v Rossleigh Ltd* [1961] RVR 448, 9 RRC 173, CA.

(8) RECOVERY OF RATES

(i) In general

170. Power to make regulations for the recovery of rates. The Secretary of State (or the Welsh Ministers, as the case may be)[1] may make regulations[2] containing such provision as he sees fit in relation to the collection and recovery of amounts persons are liable to pay[3] in relation to non-domestic rating[4].

Similar provision is made for the collection and enforcement of non-domestic rates for hereditaments[5] in the local non-domestic rating lists[6] as for hereditaments in the central non-domestic rating lists[7].

1 As to the Secretary of State and the Welsh Ministers see para 3 ante.

2 As to the making of regulations under the Local Government Finance Act 1988 generally see para 3 ante. As to the regulations so made for the purposes referred to in the text see note 4 infra.

3 Ie under the Local Government Finance Act 1988 s 43 (as amended) (see paras 60, 70 et seq ante), s 45 (as amended) (see paras 62–63, 78–79 ante), s 54 (see para 69 ante): see the Local Government Finance Act 1988 s 62, Sch 9 para 1 (prospectively amended: see note 4 infra). As to the consolidation of proceedings for the recovery of rates see the Poor Rates Recovery Act 1862 s 1.

4 Local Government Finance Act 1988 Sch 9 para 1. As from a day to be appointed under the Tribunals, Courts and Enforcement Act 2007 s 148(5), the Local Government Finance Act 1988 Sch 9 para 1 is amended so that the reference to 'recovery' becomes a reference to 'the recovery, otherwise than under the Tribunals, Courts and Enforcement Act 2007 s 62(1), Sch 12 (taking control of goods) (see para 194 post)': see the Local Government Finance Act 1988 Sch 9 para 1 (prospectively amended by the Tribunals, Courts and Enforcement Act 2007 s 62(3), Sch 13 paras 87, 89(1), (2)). At the date at which this volume states the law, no such day had been appointed.

The following regulations have been made pursuant to the power conferred by the Local Government Finance Act 1988 Sch 9 para 1 (prospectively amended): the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058 (amended by the Statute

Law (Repeals) Act 1995; SI 1990/145; SI 1991/141; SI 1991/1127; SI 1992/474; SI 1992/1512; SI 1993/616; SI 1993/774; SI 1993/1493; SI 1996/675; SI 1996/1880; SI 1998/3089; SI 2005/617; and in relation to England by SI 2000/2026; SI 2001/362; SI 2003/2210; SI 2003/2604; SI 2003/3052; SI 2006/237; SI 2006/3395; SI 2007/501; and in relation to Wales only by SI 2001/1076; SI 2003/1714; SI 2004/1013); the Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989, SI 1989/2260 (amended by SI 1991/142; SI 1992/1513; SI 1993/1494; and in relation to England by SI 2006/237); the Non-Domestic Rating (Collection and Enforcement) (Miscellaneous Provisions) Regulations 1990, SI 1990/145 (amended by SI 1993/616; SI 1993/774); the Non-Domestic Rating (Transitional Period) Regulations 1990, SI 1990/608 (amended by SI 1990/2329; SI 1992/1514; SI 1993/616; and in relation to England by SI 2003/2000); the Non-Domestic Rating (Collection and Enforcement) (Local Lists) (Amendment and Miscellaneous Provision) Regulations 1991, SI 1991/141 (amended by SI 1991/228; SI 1993/616); the Non-Domestic Rating (Demand Notices) (Wales) Regulations 1993, SI 1993/252 (amended by SI 1993/1506; SI 1994/415; SI 1995/284; SI 1996/311; SI 1996/1880; SI 1997/356; SI 1998/155; SI 2000/793; SI 2003/414; SI 2005/256; SI 2006/3392; SI 2007/3399; SI 2008/7); the Non-Domestic Rating (Collection and Enforcement) (Amendment and Miscellaneous Provision) (No 2) Regulations 1993, SI 1993/894; and the Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003, SI 2003/2613 (amended by SI 2003/3081; SI 2004/3389; SI 2006/217; SI 2006/492; SI 2006/3395; SI 2007/501).

5 For the meaning of 'hereditament' see para 33 et seq ante.

6 As to the collection and enforcement provisions under the local non-domestic rating lists see paras 176–206 post.

7 As to the collection and enforcement provisions under the central non-domestic rating lists see paras 207–219 post.

171. Provisions that may be made for collection and recovery generally. The regulations made under the power conferred in relation to the collection and recovery of amounts which persons are liable to pay in relation to non-domestic rating[1] may include provision[2]:

(1) that the ratepayer[3] is to make payments on account of the amount payable[4], which may include payments during the course of the financial year[5];

(2) that payments on account must be made in accordance with an agreement between the ratepayer and the payee[6] or in accordance with a prescribed[7] scheme for payment by instalments[8];

(3) that in prescribed circumstances payments on account must be calculated by reference to an estimate of the amount payable[9];

(4) that an estimate must be made on prescribed assumptions (whether as to the ratepayer's interest in property or otherwise)[10];

(5) that the payee must serve a notice or notices on the ratepayer stating the amount payable or its estimated amount and what payment or payments he is required to make (by way of instalment or otherwise)[11];

(6) that no payment on account of the amount payable need be made unless a notice requires it[12];

(7) that a notice must be in a prescribed form[13];

(8) that a notice must contain prescribed matters[14];

(9) that a notice must not contain other prescribed matters[15];

(10) that where a notice is invalid because it does not comply with regulations under head (7) or (8) above, and the circumstances are such as may be prescribed, a requirement contained in the notice by virtue of regulations under head (5) or (6) above is nevertheless to have effect as if the notice were valid[16];

(11) that where a notice is invalid because it does not comply with regulations under head (7) above, and a requirement has effect by virtue of regulations under head (10) above, the payee must take prescribed steps to issue to the ratepayer a document in the form which the notice would have taken had it complied with regulations under head (7) above[17];

(12) that where a notice is invalid because it does not comply with regulations under

head (8) above, and a requirement has effect by virtue of regulations under head (10) above, the payee must take prescribed steps to inform the ratepayer of such of the matters prescribed under head (8) above as were not contained in the notice[18];

(13) that the payee must supply prescribed information to the ratepayer when the payee serves a notice[19];

(14) that if the ratepayer fails to pay an instalment in accordance with the regulations, the unpaid balance of the amount payable or its estimated amount is payable on the day after the end of a prescribed period which begins with the day of the failure[20]; and

(15) that any amount paid by the ratepayer in excess of his liability (whether the excess arises because an estimate turns out to be wrong or otherwise) must be repaid or credited against any subsequent liability[21].

1 Ie under the Local Government Finance Act 1988 s 62, Sch 9 (as amended; prospectively further amended) (see para 170 ante): see Sch 9 para 2(2). As to the regulations made see para 170 note 4 ante. As to the making of regulations under the Local Government Finance Act 1988 generally see para 3 ante.
2 Ibid Sch 9 para 2(2).
3 References to the ratepayer are to a person liable to pay an amount under ibid s 43 (as amended) (see paras 60, 70 et seq ante), s 45 (as amended) (see paras 62–63, 78–79 ante), s 54 (see para 69 ante): Sch 9 para 2(1)(a).
4 References to the amount payable are to the amount the ratepayer is liable to pay: ibid Sch 9 para 2(1)(b).
5 Ibid Sch 9 para 2(2)(a). For the meaning of 'financial year' for these purposes see para 1 note 1 ante. References to the financial year are to the financial year concerned: Sch 9 para 2(1)(d).
6 References to the payee are to the billing authority to which he is liable to pay or (where ibid s 54 applies: see para 69 ante) the Secretary of State (or the Welsh Ministers, as the case may be): Sch 9 para 2(1)(c) (amended by the Local Government Finance Act 1992 s 117(1), Sch 13 para 87(1)). As to billing authorities see para 5 ante; and as to the Secretary of State and the Welsh Ministers see para 3 ante.
7 'Prescribed' in the context of regulations, means prescribed by the regulations: Local Government Finance Act 1988 s 146(6). As to regulations see note 1 supra.
8 Ibid Sch 9 para 2(2)(b).
9 Ibid Sch 9 para 2(2)(c).
10 Ibid Sch 9 para 2(2)(d).
11 Ibid Sch 9 para 2(2)(e).
12 Ibid Sch 9 para 2(2)(f). Any reference to a payment on account of an amount is to any payment (whether interim, final or sole) in respect of the amount: Sch 9 para 2(3).
13 Ibid Sch 9 para 2(2)(g) (Sch 9 para 2(2)(g) substituted, and Sch 9 para 2(2)(ga)–(ge) added, by the Local Government and Housing Act 1989 ss 139, 194(4), Sch 5 paras 1, 44, 79(3), Sch 12 Pt II).
14 Local Government Finance Act 1988 Sch 9 para 2(2)(ga) (as added: see note 13 supra).
15 Ibid Sch 9 para 2(2)(gb) (as added: see note 13 supra).
16 Ibid Sch 9 para 2(2)(gc) (as added: see note 13 supra).
17 Ibid Sch 9 para 2(2)(gd) (as added: see note 13 supra).
18 Ibid Sch 9 para 2(2)(ge) (as added: see note 13 supra).
19 Ibid Sch 9 para 2(2)(h) (amended by the Local Government and Housing Act 1989 Sch 5 paras 1, 44, 79(3), Sch 12 Pt II).
20 Local Government Finance Act 1988 Sch 9 para 2(2)(i).
21 Ibid Sch 9 para 2(2)(j). Where an amount paid by the ratepayer in excess of his liability falls to be repaid or credited, and where the circumstances are such as may be prescribed, regulations under Sch 9 (as amended; prospectively further amended) may include provision that an additional amount by way of interest is to be paid or credited: Sch 9 para 2(2A) (added by the Local Government and Housing Act 1989 Sch 5 paras 1, 44, 79(3), Sch 12 Pt II).

172. Provisions that may be made for recovery of payments due to a billing authority. In respect of any sum which has become payable to a billing authority[1] and has not been paid[2], regulations[3] may include, as regards the recovery of such a sum, provision[4]:

(1) allowing a liability order to be made[5];

(2) allowing distress and sale of goods[6];

(3) allowing commitment to prison[7];
(4) allowing a bankruptcy petition to be presented[8];
(5) allowing winding-up[9].

The regulations may include provision that such a sum is recoverable in a court of competent jurisdiction[10]; and such method of recovery is available as an alternative to any method included under heads (1) to (5) above[11].

1 Ie under any provision included under the Local Government Finance Act 1988 s 62, Sch 9 para 2 (as amended) (see para 171 ante): see Sch 9 para 3(1) (as amended: see note 2 infra). As to billing authorities see para 5 ante.
2 Ibid Sch 9 para 3(1) (amended by the Local Government Finance Act 1992 s 117(1), Sch 13 para 87).
3 Ie under the Local Government Finance Act 1988 Sch 9 (as amended; prospectively further amended) (see para 170 ante): see Sch 9 para 3(2). As to the regulations so made see para 170 note 4 ante. As to the making of regulations under the Local Government Finance Act 1988 generally see para 3 ante.
4 Ibid Sch 9 para 3(2). The regulations may include provision equivalent to any provision included in regulations made under the Local Government Finance Act 1992 s 14(3), Sch 4 para 1(1) (prospectively amended) (council tax) (see para 310 post) subject to any modifications the Secretary of State (or the Welsh Ministers, as the case may be) thinks fit: Local Government Finance Act 1988 Sch 9 para 3(3) (amended by the Local Government Finance Act 1992 Sch 13 para 87). As to the Secretary of State and the Welsh Ministers see para 3 ante.
5 Local Government Finance Act 1988 Sch 9 para 3(2)(a). See para 193 et seq post.
6 Ibid Sch 9 para 3(2)(b). See para 195 et seq post.
As from a day to be appointed under the Tribunals, Courts and Enforcement Act 2007 s 148(5), the Local Government Finance Act 1988 Sch 9 para 3(2)(b) is repealed by the Tribunals, Courts and Enforcement Act 2007 ss 62(3), 146, Sch 13 paras 87, 89(1), (3), Sch 23 Pt 3. However, at the date at which this volume states the law, no such day had been appointed.
7 Local Government Finance Act 1988 Sch 9 para 3(2)(c). See para 197 et seq post.
8 Ibid Sch 9 para 3(2)(d). As to bankruptcy petitions see BANKRUPTCY AND INDIVIDUAL INSOLVENCY vol 3(2) (2002 Reissue) para 124 et seq.
9 Ibid Sch 9 para 3(2)(e). As to winding-up see COMPANY AND PARTNERSHIP INSOLVENCY vol 7(3) (2004 Reissue) para 432 et seq.
10 Ibid Sch 9 para 3(4)(a).
11 Ibid Sch 9 para 3(4)(b).
As from a day to be appointed under the Tribunals, Courts and Enforcement Act 2007 s 148(5), the Local Government Finance Act 1988 Sch 9 para 3(4)(b) is amended to read 'such method of recovery is available as an alternative to any method provided for in the Local Government Finance Act 1988 s 62A (prospectively added) (see para 194 note 9 post) or included under heads (1) to (5) above': see the Local Government Finance Act 1988 Sch 9 para 3(4)(b) (prospectively amended by the Tribunals, Courts and Enforcement Act 2007 Sch 13 paras 87, 89(1), (3)). At the date at which this volume states the law, no such day had been appointed.

173. Provisions that may be made for recovery of payments due to persons other than a billing authority. In respect of any sum:

(1) which has become payable[1] to the Secretary of State (or to the Welsh Ministers, as the case may be)[2]; or
(2) which has become payable[3] (by way of repayment) to a person other than a billing authority[4] or to the Secretary of State (or to the Welsh Ministers, as the case may be)[5],

and which has not been paid[6], regulations[7] may include provision that such a sum is recoverable in a court of competent jurisdiction[8].

1 Ie under any provision included under the Local Government Finance Act 1988 s 62, Sch 9 para 2 (as amended) (see para 171 ante): see Sch 9 para 4(1)(a).
2 Ibid Sch 9 para 4(1)(a). As to the Secretary of State and the Welsh Ministers see para 3 ante.
3 Ie under any provision included under the Local Government Finance Act 1988 Sch 9 para 2 (as amended) (see para 171 ante): see Sch 9 para 4(1)(b) (as amended: see note 5 infra).
4 As to billing authorities see para 5 ante.
5 Local Government Finance Act 1988 Sch 9 para 4(1)(b) (amended by the Local Government Finance Act 1992 s 117(1), Sch 13 para 87).

6 See the Local Government Finance Act 1988 Sch 9 para 4(1)(a), (b) (Sch 9 para 4(1)(b) as amended: see note 5 supra).
7 Ie regulations under ibid Sch 9 (as amended; prospectively further amended) (see para 170 ante): see Sch 9 para 4(2). As to the regulations so made see para 170 note 4 ante. As to the making of regulations under the Local Government Finance Act 1988 generally see para 3 ante.
8 Ibid Sch 9 para 4(2).

174. Provisions that may be made for payments by agreement. For the purposes of administering non-domestic rating, regulations[1] may include provision that a billing authority[2] and a person liable to pay it an amount[3] may enter into an agreement[4]:

(1) that any interest of his in the hereditament[5] as regards which the liability arises must be charged to secure payment of the amount[6]; and
(2) that, in consideration of the charge, the authority will take no steps for a period specified in the agreement to recover any payment in respect of the amount[7].

The regulations may include:

(a) provision that the agreement may also extend to any further amount the person may become liable to pay to the authority[8] as regards the hereditament[9];
(b) provision that the agreement may provide for the payment of interest on sums outstanding and for interest payable to be secured by the charge[10];
(c) provision restricting the period which may be specified as mentioned in head (2) above[11].

1 Ie regulations under the Local Government Finance Act 1988 s 62, Sch 9 (as amended; prospectively further amended) (see para 170 ante): see Sch 9 para 4A(1) (as added and amended: see note 4 infra). As to the regulations so made see para 170 note 4 ante. As to the making of regulations under the Local Government Finance Act 1988 generally see para 3 ante.
2 As to billing authorities see para 5 ante.
3 Ie under the Local Government Finance Act 1988 s 43 (as amended) (see paras 60, 70 et seq ante) or under s 45 (as amended) (see paras 62–63, 78–79 ante): see Sch 9 para 4A(1) (as added and amended: see note 4 infra).
4 Ibid Sch 9 para 4A(1) (Sch 9 para 4A added by the Local Government and Housing Act 1989 ss 139, 194(4), Sch 5 paras 1, 44, 79(3), Sch 12 Pt II; and the Local Government Finance Act 1988 Sch 9 para 4A(1) amended by the Local Government Finance Act 1992 s 117(1), Sch 13 para 87).
5 For the meaning of 'hereditament' see para 33 et seq ante.
6 Local Government Finance Act 1988 Sch 9 para 4A(1)(a) (as added: see note 4 supra).
7 Ibid Sch 9 para 4A(1)(b) (as added: see note 4 supra).
8 Ie under ibid s 43 (as amended) (see paras 60, 70 et seq ante) or under s 45 (as amended) (see paras 62–63, 78–79 ante): see Sch 9 para 4A(2)(a) (as added: see note 4 supra).
9 Ibid Sch 9 para 4A(2)(a) (as added: see note 4 supra).
10 Ibid Sch 9 para 4A(2)(b) (as added: see note 4 supra).
11 Ibid Sch 9 para 4A(2)(c) (as added: see note 4 supra).

175. Provisions that may be made for recovery or adjustment where ratepayer dies. The Secretary of State (or the Welsh Ministers, as the case may be)[1] may make such regulations[2] as he sees fit to deal with any case where a person dies and at any time before his death he was (or is alleged to have been) subject to a non-domestic rate[3]. The regulations may provide:

(1) that where, before his death, a sum has become payable by the deceased but has not been paid, his executor or administrator is liable to pay the sum and may deduct out of the assets and effects of the deceased any payments made (or to be made)[4];
(2) that where, before his death, a sum in excess of his liability has been paid (whether the excess arises because of his death or otherwise) and has not been repaid or credited his executor or administrator is entitled to the sum[5];

(3) for the recovery of any sum which is payable under the regulations and is not paid[6];

(4) that proceedings[7] may be instituted, continued or withdrawn by the deceased's executor or administrator[8].

1 As to the Secretary of State and the Welsh Ministers see para 3 ante.

2 As to the making of regulations under the Local Government Finance Act 1988 generally see para 3 ante. As to the regulations so made for the purposes referred to in the text see note 3 infra.

3 Local Government Finance Act 1988 s 63(1). The following regulations have been made pursuant to the power conferred by s 63(1): the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058 (amended by the Statute Law (Repeals) Act 1995; SI 1990/145; SI 1991/141; SI 1991/1127; SI 1992/474; SI 1992/1512; SI 1993/616; SI 1993/774; SI 1993/1493; SI 1996/675; SI 1996/1880; SI 1998/3089; SI 2005/617; and in relation to England by SI 2000/2026; SI 2001/362; SI 2003/2210; SI 2003/2604; SI 2003/3052; SI 2006/237; SI 2006/3395; SI 2007/501; and in relation to Wales only by SI 2001/1076; SI 2003/1714; SI 2004/1013); the Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989, SI 1989/2260 (amended by SI 1991/142; SI 1992/1513; SI 1993/1494; and in relation to England by SI 2006/237); the Non-Domestic Rating (Collection and Enforcement) (Miscellaneous Provisions) Regulations 1990, SI 1990/145 (amended by SI 1993/616; SI 1993/774); and the Non-Domestic Rating (Transitional Period) Regulations 1990, SI 1990/608 (amended by SI 1990/2329; SI 1992/1514; SI 1993/616; and in relation to England by SI 2003/2000). See para 206 post.

Nothing in the Local Government Finance Act 1988 s 63(3)–(6) (see heads (1) to (4) in the text) prejudices the generality of s 63(1): s 63(2). As to liability for a non-domestic rate see para 7 et seq ante.

4 Ibid s 63(3).

5 Ibid s 63(4).

6 Ibid s 63(5).

7 Ie whether by way of appeal under regulations under ibid s 55 (as amended) (see para 128 ante) or otherwise: see s 63(6).

8 Ibid s 63(6).

(ii) Local Non-domestic Rating Lists

A. DEMAND

(A) Demand Notices

176. Demand notices and their service. For each chargeable financial year[1], a billing authority[2] must serve a written notice in accordance with the local non-domestic rating lists regulations[3] (a 'demand notice')[4] on every person who is a ratepayer[5] of the authority in relation to the year[6].

Where any notice which is required or authorised[7] to be given to (or served on) a person relates to a hereditament[8] which is (or, where such a notice relates to more than one hereditament, one or more of which is) a place of business of that person, it may be given or served by leaving it at (or by sending it by post to him at) the place of business (or, as the case may be, one of those places of business)[9].

In relation to England only[10], any notice required or authorised to be given to (or served by) a billing authority on any person[11], or any information required by the demand notice regulations[12] to be supplied to any person when a demand notice[13] is served[14]:

(1) may be so given, served or supplied by sending the notice or information to that person by electronic communication[15] to such address[16] as may be notified by that person for that purpose[17]; or

(2) is to be treated as given, served or supplied to that person where[18]:

(a) the billing authority and that person have agreed for that purpose that any documents containing the notice or information may be accessed by that person on a website[19];

(b) the document is a document to which that agreement applies[20];
(c) the billing authority has published the document on a website[21]; and
(d) that person is notified, in a manner for the time being agreed for those purposes between him and the billing authority, of the publication of the document on a website[22], of the address of that website[23] and of the place on the website where the document may be accessed[24].

For the purpose of any legal proceedings in England, a notice given by a means described in heads (1) and (2)(a) to (2)(d) above must, unless the contrary is proved, be treated as served on the second business day[25] after it was sent in accordance with head (1) above[26] or on the second business day after notification of its publication was given in accordance with head (2)(d) above[27].

1 For the purposes of the Local Government Finance Act 1988, chargeable financial years are financial years beginning in 1990 and subsequent years: s 145(1). For the meaning of 'financial year' for these purposes see para 1 note 1 ante.
2 As to billing authorities see para 5 ante.
3 Ie in accordance with the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, regs 5–7 (as amended) (see paras 178–179, 183 post): see reg 4(1) (as amended: see note 6 infra).
4 For these purposes, 'demand notice' means the notice required to be served by ibid reg 4(1) (as amended): reg 3(1).
5 For these purposes, 'ratepayer' in relation to a chargeable financial year and a billing authority means a person liable to pay an amount under the Local Government Finance Act 1988 s 43 (as amended) (see paras 60, 70 et seq ante) or under s 45 (as amended) (see paras 62–63, 78–79 ante) to the authority in respect of the year: Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 3(1) (amended by SI 1993/616).
6 Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 4(1) (amended by SI 1993/616).
7 Ie by the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058 (as amended): see reg 2(2).
8 For the meaning of 'hereditament' see para 33 et seq ante.
9 Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 2(2). The provision set out in the text is expressed to be without prejudice to the Local Government Act 1972 s 233 (as amended) (service of notices to local authorities) (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 443) and the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 2(1): see reg 2(2). Accordingly, where any notice which is required or authorised under the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058 (as amended) to be given to (or served on) a person falls to be given or served by or on behalf of the Common Council of the City of London or by an officer of the Common Council of the City of London, it may be given or served in any manner in which it might be given or served under the Local Government Act 1972 s 233 (as amended) if the Common Council of the City of London were a local authority within the meaning of that provision: Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 2(1). As to the Common Council of the City of London see LONDON GOVERNMENT vol 29(2) (Reissue) para 51 et seq.
10 For the meaning of 'England' see para 1 note 2 ante.
11 Ie by a provision of the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058 Pt II (regs 3–9) (as amended): see reg 2(3) (as added: see note 14 infra).
12 For these purposes, 'demand notice regulations' means the Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 1993, SI 1993/191 (revoked) or, as the case may be, the Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003, SI 2003/2613 (as amended) (see para 170 note 4 ante): Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 1(2) (definition added in relation to England by SI 2003/2604; and amended in relation to England by SI 2003/3052).
13 Ie within the meaning of the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, Pt II (as amended) (see note 4 supra): see reg 2(3) (as added: see note 14 infra).
14 Ibid reg 2(3) (reg 2(3)–(7) added in relation to England by SI 2003/2604). The provision set out in the text is expressed to be without prejudice to the Local Government Act 1972 s 233 (as amended) (service of notices to local authorities) (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 443) and the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058,

reg 2(1), (2) (see the text and notes 7–9 supra) and is subject to reg 2(4)–(7) (as added) (see the text and notes 17, 19, 25–27 infra): see reg 2(3) (as so added).

15 For these purposes, 'electronic communication' means a communication transmitted (whether from one person to another, from one device to another or from a person to a device or vice versa) by means of an electronic communications network within the meaning of the Communications Act 2003 s 32(1) (see TELECOMMUNICATIONS AND BROADCASTING vol 45(1) (2005 Reissue) para 64), or by other means but while in electronic form: Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 1(2) (definition added in relation to England by SI 2003/2604; and substituted in relation to England by SI 2006/237).

16 For these purposes, 'address', in relation to electronic communications, includes any number or address used for the purposes of such communications: Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 1(2) (definition added in relation to England by SI 2003/2604).

17 Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 2(3)(a) (as added: see note 14 supra). A person who has notified an address for the purpose of reg 2(3)(a) (as added) must, by notice in writing to the billing authority, advise the billing authority of any change in that address; and the change takes effect on the third business day (as to the meaning of which see note 25 infra) after the date on which the notice is received by the billing authority: reg 2(5) (as so added). A person who has notified an address for the purpose of reg 2(3)(a) (as added) also may, by notice in writing to the billing authority, withdraw that notification; and the withdrawal takes effect on the third business day after the date on which the notice is received by the billing authority: reg 2(6) (as so added).

18 Ibid reg 2(3)(b) (as added: see note 14 supra).

19 Ibid reg 2(3)(b)(i) (as added: see note 14 supra). A person who has entered into an agreement with the billing authority under reg 2(3)(b)(i) (as added) may, by notice in writing to the billing authority, inform the authority that he no longer wishes to be a party to the agreement; and where such notice is given, the agreement is to be treated as revoked on the third business day (as to the meaning of which see note 25 infra) after the date on which the notice is received by the billing authority: reg 2(7) (as so added).

20 Ibid reg 2(3)(b)(ii) (as added: see note 14 supra).

21 Ibid reg 2(3)(b)(iii) (as added: see note 14 supra).

22 Ibid reg 2(3)(b)(iv)(aa) (as added: see note 14 supra).

23 Ibid reg 2(3)(b)(iv)(bb) (as added: see note 14 supra).

24 Ibid reg 2(3)(b)(iv)(cc) (as added: see note 14 supra).

25 For these purposes, 'business day' means any day except a Saturday or Sunday, Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 (see TIME vol 45(2) (Reissue) para 220) in England and Wales: Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 1(2) (definition added in relation to England by SI 2003/2604). For the meaning of 'Wales' see para 1 note 2 ante.

26 Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 2(4)(a) (as added: see note 14 supra).

27 Ibid reg 2(4)(b) (as added: see note 14 supra).

177. The requirement for demand notices. Different demand notices[1] are to be served for different chargeable financial years[2]. A demand notice must be served with respect to the amount payable[3] for every hereditament as regards which a person is a ratepayer of the authority, though a single notice may relate to the amount payable with respect to more than one such hereditament[4].

If a single demand notice relates to the amount payable with respect to more than one hereditament[5], the amounts due under it, and the times at which they fall due, are to be determined as if separate notices were issued in respect of each hereditament[6].

1 For the meaning of 'demand notice' see para 176 note 4 ante.

2 Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 4(2). For the purposes of the Local Government Finance Act 1988, chargeable financial years are financial years beginning in 1990 and subsequent years: s 145(1). For the meaning of 'financial year' for these purposes see para 1 note 1 ante.

3 For these purposes, 'amount payable' for a chargeable financial year or part of a chargeable financial year in relation to a ratepayer, a billing authority and a hereditament means:

(1) the amount the ratepayer is liable to pay to the authority as regards the hereditament in respect of the year or part under the Local Government Finance Act 1988 s 43 (as amended) (see paras 60, 70 et seq ante) or under s 45 (as amended) (see paras 62–63, 78–79 ante), whether calculated by

reference to s 43(4)–(6) or s 45(4)–(6) (as those provisions are amended or substituted in any case by or under s 57, Sch 7A (as added and amended) (see para 83 ante)) or by reference to an amount or rules determined or prescribed under s 47(1)(a) (as amended) (discretionary relief) (see para 80 ante) or s 58(3)(a) (special provision for chargeable amounts in relation to Wales) (see para 85 ante) (Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 3(1)(a) (definition substituted by SI 1991/141)); or

(2) where an amount falls to be credited by the billing authority against the ratepayer's liability in respect of the year or part, the amount (if any) by which the amount referred to in head (1) supra exceeds the amount falling to be so credited (Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 3(1)(b) (definition as so substituted; amended by SI 1993/616)).

For the meaning of 'hereditament' see para 33 et seq ante; and for the meaning of 'ratepayer' see para 176 note 5 ante. As to billing authorities see para 5 ante. Under the Local Government Finance Act 1988, 'prescribed' in the context of regulations, means prescribed by the regulations: s 146(6).

'Amount payable' in the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058 (as amended) could only have the meaning set out in reg 3(1) (as amended) and could not be made to refer to a refund: *AEM (Avon) Ltd v Bristol City Council* [1999] LGR 93, [1998] RA 89.

4 Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 4(3).

5 Ie subject to ibid reg 7(1) (as amended), Sch 1 para 5 (see para 184 note 1 post) and Sch 1 para 8 (as amended) (see para 190 post): see reg 4(4).

6 Ibid reg 4(4).

178. Time of service of demand notices. A demand notice[1] must be served[2] on or as soon as practicable after[3]:

(1) except in a case falling within head (2) below, 1 April in the relevant year[4]; or

(2) if the prescribed conditions as to liability[5] are not fulfilled in respect of that day[6] as regards the ratepayer[7] and the hereditament[8] concerned, the first day after that day in respect of which such conditions are fulfilled as regards them[9].

A demand notice may[10], if the non-domestic multiplier for the relevant year has been determined or set[11], be served before the beginning of the relevant year on a person with respect to whom on the day it is issued it appears to the billing authority[12] that the prescribed conditions[13] are fulfilled[14] as regards the hereditament to which it relates[15].

A demand notice must not be served before the authority has set amounts of council tax for the relevant year[16].

1 For the meaning of 'demand notice' see para 176 note 4 ante.

2 Ie subject to the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 5(2) (as amended) (see the text and notes 10–15 infra): see reg 5(1).

3 Ibid reg 5(1).

The Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 5(1) contains a balance between the interests of the ratepayers and the practicalities of administration; Parliament must have intended that if the billing authority has not complied with the requirements of that provision it would be wrong in principle for the ratepayer to have an obligation thereafter to pay: *Encon Insulation Ltd v Nottingham City Council* [1999] RA 382, [1999] 24 LS Gaz R 40, [1999] All ER (D) 588 (council should have taken practicable steps at an earlier stage than November to locate the relevant premises and their failure to do so precluded recovery of the tax).

4 Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 5(1)(a). For these purposes, 'relevant year' in relation to a notice means the chargeable financial year to which the notice relates: reg 3(1). For the purposes of the Local Government Finance Act 1988, chargeable financial years are financial years beginning in 1990 and subsequent years: s 145(1). For the meaning of 'financial year' for these purposes see para 1 note 1 ante.

5 Ie the conditions mentioned in the Local Government Finance Act 1988 s 43(1) (see para 60 ante) or s 45(1) (as amended) (see para 62 ante): see the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 5(1)(b). For these purposes, the conditions mentioned in the Local Government Finance Act 1988 s 43(1) or s 45(1) (as amended) are not to be treated as fulfilled as regards a hereditament on any day on which the chargeable amount for the day in respect of it is nil by virtue of a determination to that effect under s 47(1)(a) (as amended) (see para 80 ante): Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 3(2).

6 Where references are made in ibid Pt II (regs 3–9) (as amended) to the day on which a notice is issued, they must be taken to be references:
   (1) if the notice is served in the manner described in reg 2(2) (see para 176 ante) or the Local Government Act 1972 s 233(2) (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 443), by being left at (or sent by post to) a person's place of business or proper address, to the day on which it is so left or posted (Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 3(3)(a)); or
   (2) in any other case, to the day on which it is served (reg 3(3)(b)).
7 For the meaning of 'ratepayer' see para 176 note 5 ante.
8 For the meaning of 'hereditament' see para 33 et seq ante.
9 Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 5(1)(b).
10 Ie subject to ibid reg 5(3) (as added) (see the text and note 16 infra): see reg 5(2) (as amended: see note 15 infra).
11 Ie under the Local Government Finance Act 1988 s 56(2), Sch 7 (as amended) (see para 86 ante): see the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 5(2) (as amended: see note 15 infra).
12 As to billing authorities see para 5 ante.
13 Ie the conditions mentioned in the Local Government Finance Act 1988 s 43(1) (see para 60 ante) or s 45(1) (as amended) (see para 62 ante): see the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 5(2) (as amended: see note 15 infra). As to these conditions see note 5 supra.
14 Ie or would be fulfilled if a list sent under the Local Government Finance Act 1988 s 41(5) (as amended) (see para 121 ante) were in force: see the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 5(2) (as amended: see note 15 infra).
15 Ibid reg 5(2) (amended by SI 1993/616; SI 1993/774). If a demand notice is so served, references in the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, Pt II (as amended) to a ratepayer are, in relation to that notice and so far as the context permits, to be construed as references to that person: reg 5(2) (as so amended).
16 Ibid reg 5(3) (added by SI 1993/774). Amounts referred to in the text are those set under the Local Government Finance Act 1992 s 30 (as amended) (see para 260 post): see the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 5(3) (as so added).

179. Payments under demand notices. If a demand notice[1] is issued before or during the relevant year[2] and it appears to the billing authority[3] that the prescribed conditions as to liability[4] are fulfilled[5] in respect of the day on which the notice is issued[6] as regards the ratepayer[7] and the hereditament[8] to which it relates, the notice is to require payment of an amount equal to the billing authority's estimate of the amount payable[9] for the year, made as respects periods after the issue of the notice on the assumption that the conditions concerned will continue to be fulfilled on every day after that day[10].

If a demand notice is issued after the end of the relevant year, it must require payment of the amount payable for the year[11].

1 For the meaning of 'demand notice' see para 176 note 4 ante.
2 For the meaning of 'relevant year' see para 178 note 4 ante.
3 As to billing authorities see para 5 ante.
4 Ie the conditions mentioned in the Local Government Finance Act 1988 s 43(1) (see para 60 ante) or s 45(1) (as amended) (see para 62 ante): see the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 6(1) (as amended: see note 10 infra). As to these conditions see para 178 note 5 ante.
5 Ie or would be fulfilled if a list sent under the Local Government Finance Act 1988 s 41(5) (as amended) (see para 121 ante) were in force: see the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 6(1) (as amended: see note 10 infra).
6 As to the day on which a notice is issued see para 178 note 6 ante.
7 For the meaning of 'ratepayer' see para 176 note 5 ante.
8 For the meaning of 'hereditament' see para 33 et seq ante.
9 For the meaning of 'the amount payable' see para 177 note 3 ante.
10 Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 6(1) (amended by SI 1993/616).

If a demand notice is issued during the relevant year but the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 6(1) (as amended) does not apply, the notice must require payment of an amount equal to the amount payable for the period in the year up to the day on which the conditions mentioned in the Local Government Finance Act 1988 s 43(1) (see para 60 ante) or s 45(1) (as amended) (see para 62 ante) were last fulfilled as regards the ratepayer and hereditament concerned: Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 6(2). As to these conditions see para 178 note 5 ante.

If, after a notice is served to which reg 6(2) applies, the conditions mentioned in the Local Government Finance Act 1988 s 43(1) or s 45(1) (as amended) are fulfilled again in the relevant year as regards the ratepayer and the hereditament concerned, a further notice must be served on him requiring payments with respect to the amount payable in relation to the hereditament for the period in the relevant year beginning with the day in respect of which the conditions are so fulfilled again; and the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, regs 5–8 (as amended) (see paras 178 ante, 183, 191 post) (and, so far as applicable, reg 7(1), Sch 1 (as amended) (see paras 184–190 post)) are to apply to the further notice with respect to that period as if it were a demand notice and the conditions had not previously been fulfilled: reg 6(3). As to these conditions see para 178 note 5 ante.

11 Ibid reg 6(4).

180. Content of demand notices. A rate demand notice[1] issued in England and Wales[2] for any financial year[3] beginning on or after 1 April 2004 must contain certain matters prescribed by regulation[4].

If the rate demand notice is served by the Common Council of the City of London (or an authorised person on behalf of the Common Council of the City of London) it must contain the following[5]:

(1) a statement of the address and description of each hereditament[6] to which the notice relates (the 'relevant hereditament')[7];

(2) a statement of the rateable value shown for each relevant hereditament in the authority's local non-domestic rating list[8];

(3) a statement of the days (if any) on which, for the purposes of calculating the payments required to be made under the notice, it was understood or assumed that the prescribed conditions as to liability[9] were or would be fulfilled in relation to any relevant hereditament, and a statement that as regards those days the chargeable amount is one-half of that which it would be if the ratepayer were in occupation[10] of the hereditament[11];

(4) a statement of the days (if any) on which the method of calculating the payments required to be made is set out[12];

(5) a statement of the non-domestic rating multipliers set by the Common Council of the City of London for the relevant year[13] in accordance with statutory provision[14];

(6) explanatory notes in prescribed wording[15].

If the rate demand notice is served by or on behalf of a billing authority in England, other than the Common Council of the City of London or a rural settlement authority[16], it must contain the matters as set out in heads (1) to (6) above[17], except that the non-domestic rating multipliers to be stated under head (5) above are those set in relation to England under statutory provision[18] and the explanatory notes mentioned in head (6) above are worded differently[19]. A rate demand notice served by or on behalf of a rural settlement authority must contain the same matters as required by any other billing authority in England, but subject to minor modification[20].

If the rate demand notice is served by or on behalf of a Welsh billing authority, it must contain the matters as set out in heads (1) to (5) above[21], except that the non-domestic rating multipliers to be stated under head (5) above are those set in relation to Wales under statutory provision[22] and the explanatory notes mentioned in head (6) above are worded differently and may be supplied in English or Welsh language versions (or in both languages)[23].

If a rate demand notice is served before the end of the relevant year[24], a billing authority must also supply other information, relating mainly to local government finance estimates, when it serves the rate demand notice[25].

So that a billing authority may fulfil its obligations with regard to the specified content of council tax demand notices[26], information must be supplied to them by precepting authorities[27] and (in relation to England only) by levying bodies[28].

1 For these purposes, 'rate demand notice' means a demand notice within the meaning of the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, Pt II (regs 3–9) (as amended) (see paras 176 et seq ante, 181 et seq post) which is served by a billing authority or any person authorised by a billing authority to exercise any functions relating to the collection of non-domestic rates (including such a notice served pursuant to the Non-Domestic Rating (Collection and Enforcement) (Miscellaneous Provisions) Regulations 1990, SI 1990/145, Pt II (regs 2–5) (as amended) (joint owners and occupiers)): Non-Domestic Rating (Demand Notices) (Wales) Regulations 1993, SI 1993/252, reg 2(1) (definition amended by SI 1996/1880); Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003, SI 2003/2613, reg 1(2). As to billing authorities see para 5 ante.

2 For the meanings of 'England' and 'Wales' see para 1 note 2 ante.

3 For the purposes of the Local Government Finance Act 1988, chargeable financial years are financial years beginning in 1990 and subsequent years: s 145(1). For the meaning of 'financial year' for these purposes see para 1 note 1 ante.

4 Non-Domestic Rating (Demand Notices) (Wales) Regulations 1993, SI 1993/252, reg 1 (amended by SI 1996/1880); Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003, SI 2003/2613, reg 2.

Nothing requires a notice to be given on a single sheet of paper, but if more than one sheet is used, the sheets are to be issued together, whether or not attached, so as to comprise one notice: Non-Domestic Rating (Demand Notices) (Wales) Regulations 1993, SI 1993/252, reg 3(2); Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003, SI 2003/2613, reg 3(6).

5 Ibid reg 3(3)(c). As to the Common Council of the City of London see LONDON GOVERNMENT vol 29(2) (Reissue) para 51 et seq.

6 For the meaning of 'hereditament' see para 33 et seq ante.

7 Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003, SI 2003/2613, reg 3(3)(c), Sch 2 Pt I para 1; applied by Sch 2 Pt III para 1.

8 Ibid Sch 2 Pt I para 2; applied by Sch 2 Pt III para 1. As to the compilation and maintenance of local non-domestic rating lists see para 121 et seq ante.

9 Ie the conditions mentioned in the Local Government Finance Act 1988 s 45(1) (as amended) (see para 62 ante): see the Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003, SI 2003/2613, Sch 2 Pt I para 4; applied by Sch 2 Pt III para 1.

10 As to occupation see para 12 et seq ante.

11 Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003, SI 2003/2613, Sch 2 Pt I para 4; applied by Sch 2 Pt III para 1.

12 See ibid Sch 2 Pt I para 5 (amended by SI 2004/3389); applied by the Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003, SI 2003/2613, Sch 2 Pt III para 1.

13 For these purposes, 'relevant year', in relation to a notice, means the financial year to which the demand for payment made by the notice relates: ibid reg 1(2).

14 See ibid Sch 2 Pt III para 2. The statutory provision referred to in head (5) in the text is the Local Government Finance Act 1988 s 56(2), Sch 7 Pt II para 9 (as amended) (non-domestic rating multiplier to be used by a special authority) (see para 86 note 6 ante): see the Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003, SI 2003/2613, Sch 2 Pt III para 2.

15 See ibid Sch 2 Pt III para 3.

16 For these purposes, 'rural settlement authority' means a billing authority which has, in respect of the relevant year, identified one or more rural settlements for that year in a list compiled under the Local Government Finance Act 1988 s 42A(2) (as added) (see para 124 ante): Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003, SI 2003/2613, reg 1(2). As to rural settlement authorities see paras 76, 124 ante.

17 See ibid reg 3(3)(a), Sch 2 Pt I paras 1–6 (para 5 as amended: see note 12 supra).

18 See ibid Sch 2 Pt I para 3 (amended by SI 2004/3389). The statutory provision referred to in the text is the Local Government Finance Act 1988 Sch 7 Pt I para 3 (as substituted) or Sch 7 Pt I para 4 (as substituted) (small business non-domestic rating multiplier for England) (see para 86 note 6 ante) or Sch 7 Pt I para 3A (as added) or Sch 7 Pt I para 4A (as added) (non-domestic rating multiplier for England) (see para 86 note 6 ante), as the case may be: see the Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003, SI 2003/2613, Sch 2 Pt I para 3 (as so amended).

19 See ibid Sch 2 Pt I para 6 (amended by SI 2004/3389; SI 2006/3395).
20 See the Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003, SI 2003/2613, reg 3(3)(b), Sch 2 Pt I (as amended); applied and modified by Sch 2 Pt II.
21 See the Non-Domestic Rating (Demand Notices) (Wales) Regulations 1993, SI 1993/252, reg 3(1), Sch 1 paras 1–5 (para 5 amended by SI 1997/356; SI 1998/155; SI 2006/3392).
22 See the Non-Domestic Rating (Demand Notices) (Wales) Regulations 1993, SI 1993/252, Sch 1 para 3. The statutory provision referred to in the text is the Local Government Finance Act 1988 Sch 7 Pt I para 3B (as added) or Sch 7 Pt I para 4B (as added) (non-domestic rating multiplier for Wales) (see para 86 note 6 ante), as the case may be: see the Non-Domestic Rating (Demand Notices) (Wales) Regulations 1993, SI 1993/252, Sch 1 para 3.
23 See ibid regs 4, 6–7, Sch 2 (Sch 2 substituted by SI 2007/3399; the Non-Domestic Rating (Demand Notices) (Wales) Regulations 1993, SI 1993/252, Sch 2 Pt I para 1, Sch 2 Pt II para 1 amended by SI 2008/7).
24 In relation to Wales, 'relevant year' in relation to a demand notice, means the financial year to which the demand for payment made by the notice relates: Non-Domestic Rating (Demand Notices) (Wales) Regulations 1993, SI 1993/252, reg 2.
25 Ibid reg 8; Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003, SI 2003/2613, reg 3(4), (5). As to the information prescribed in relation to Wales see the Non-Domestic Rating (Demand Notices) (Wales) Regulations 1993, SI 1993/252, reg 8, Sch 3 (Sch 3 amended by SI 1995/284; SI 1996/311). As to the information prescribed in relation to England see the Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003, SI 2003/2613, reg 3(4), Sch 3 Pt II.
26 Ie, in relation to Wales, under the Non-Domestic Rating (Demand Notices) (Wales) Regulations 1993, SI 1993/252, regs 3, 8 (as amended) (see the text and notes 21–25 supra) or, in relation to England, under the Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003, SI 2003/2613, reg 3 (see the text and notes 5–20, 24–25 supra).
27 See the Non-Domestic Rating (Demand Notices) (Wales) Regulations 1993, SI 1993/252, reg 9 (amended by SI 1996/310); and the Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003, SI 2003/2613, reg 5. As to precepting authorities see para 1 ante.
28 See ibid reg 6. As to levying bodies see LOCAL GOVERNMENT vol 29(1) (Reissue) para 530.

181. Consequence of omissions. A rate demand notice[1] in England and Wales[2] is invalid if it does not contain the matters prescribed by regulation[3].

However, where the failure so to comply was due to a mistake[4], and where the amounts required to be paid under the notice were demanded in accordance with prescribed provisions[5], the requirement to pay those amounts applies as if the notice were valid[6]. In such circumstances, the billing authority[7] must, as soon as practicable after the mistake is discovered, issue to the liable ratepayer concerned a statement of the matters which were not contained in the notice and which should have been so contained[8].

1 For the meaning of 'rate demand notice' see para 180 note 1 ante.
2 For the meanings of 'England' and 'Wales' see para 1 note 2 ante.
3 Non-Domestic Rating (Demand Notices) (Wales) Regulations 1993, SI 1993/252, reg 5(1)(a); Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003, SI 2003/2613, reg 4(2)(a). As to the prescribed matters see para 180 ante.
4 Non-Domestic Rating (Demand Notices) (Wales) Regulations 1993, SI 1993/252, reg 5(1)(b); Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003, SI 2003/2613, reg 4(2)(b).
5 Non-Domestic Rating (Demand Notices) (Wales) Regulations 1993, SI 1993/252, reg 5(1)(c); Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003, SI 2003/2613, reg 4(2)(c). The prescribed provisions are the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, Pt II (regs 3–9) (as amended) (see paras 176 et seq ante, 182 et seq post): see the Non-Domestic Rating (Demand Notices) (Wales) Regulations 1993, SI 1993/252, reg 5(1)(c); and the Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003, SI 2003/2613, reg 4(2)(c).
6 Non-Domestic Rating (Demand Notices) (Wales) Regulations 1993, SI 1993/252, reg 5(1); Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003, SI 2003/2613, reg 4(2).
7 As to billing authorities see para 5 ante.
8 Non-Domestic Rating (Demand Notices) (Wales) Regulations 1993, SI 1993/252, reg 5(2); Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003, SI 2003/2613, reg 4(3).

182. Demand notices: final adjustment. Where:

(1) a notice has been issued by a billing authority[1] requiring a payment or payments to be made by a ratepayer[2] in respect of the amount payable[3] in relation to a hereditament[4] for a chargeable financial year[5] or part of a chargeable financial year[6];

(2) the payment or payments required to be paid are found to be in excess of or less than the amount payable in relation to the hereditament for the year or the part[7]; and

(3) provision for adjusting the amounts required under the notice and (as appropriate) for the making of additional payments or the repaying or crediting of any amount overpaid is not made by any other provision[8],

the billing authority must as soon as practicable after the expiry of the year or the part of a year serve a further notice on the ratepayer stating the amount payable for the year or part in relation to the hereditament, and adjusting (by reference to that amount) the amounts required to be paid under the notice referred to in head (1) above[9].

1 Ie under the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, Pt II (regs 3–9) (as amended) (see paras 176 et seq ante, 183 et seq post): see reg 9(1)(a) (as amended: see note 6 infra). As to billing authorities see para 5 ante.

2 For the meaning of 'ratepayer' see para 176 note 5 ante.

3 For the meaning of 'amount payable' see para 177 note 3 ante.

4 For the meaning of 'hereditament' see para 33 et seq ante.

5 For the purposes of the Local Government Finance Act 1988, chargeable financial years are financial years beginning in 1990 and subsequent years: s 145(1). For the meaning of 'financial year' for these purposes see para 1 note 1 ante.

6 Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 9(1)(a) (amended by SI 1993/616).

7 Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 9(1)(b).

8 Ibid reg 9(1)(c). The other provisions referred to in the text are Pt II (as amended) (see paras 176 et seq ante, 183 et seq post), the Local Government Finance Act 1988 (see para 4 et seq ante) or any agreement entered into under the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 7(3) (as amended) (see para 183 post): see reg 9(1)(c).

9 Ibid reg 9(2) (amended by SI 1993/616). No notice can be made under the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 9(2) (as amended) requiring the payment of sums refunded in error: *AEM (Avon) Ltd v Bristol City Council* [1999] LGR 93, [1998] RA 89 (where the procedure in the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, Pt II (as amended) (see paras 176 et seq ante, 183 et seq post) had been complied with and exhausted by payment of the amount due, the liability order provisions in the Regulations had no application and the local authority's proper remedy was in restitution).

If the amount stated in the further notice is greater than the amount required to be paid under the notice referred to in the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 9(1)(a) (as amended) (see head (1) in the text), the amount of the difference for which such other provision as is mentioned in reg 9(1)(c) (see head (3) in the text) is not made is due from the ratepayer to the billing authority on the expiry of such period (being not less than 14 days) after the day of issue of the notice as is specified in it: reg 9(3) (amended by SI 1993/616).

If there has been an overpayment in respect of any liability of the ratepayer under the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, Pt II (as amended), the amount overpaid for which such other provision as is mentioned in reg 9(1)(c) is not made:

(1) is to be repaid if the ratepayer so requires (reg 9(4)(a)); or

(2) in any other case is (as the billing authority determines) either to be repaid or be credited against any subsequent liability of the ratepayer to pay anything to the billing authority by way of non-domestic rate (reg 9(4)(b)) (amended by SI 1993/616).

As to the repayment, crediting or adjustment of payments see para 183 note 5 post.

(B) Payment by Instalments

183. Payment by instalments. A billing authority[1] and a ratepayer[2] may agree that the estimate of the amount payable[3] which is required to be paid[4] should be paid in such manner as is provided by the agreement, rather than in accordance with the non-domestic rate instalment scheme[5].

If such an agreement[6] in relation to the relevant year[7] has been reached between the billing authority and the ratepayer before the demand notice[8] is issued, a prescribed notice[9] must require the estimate of the amount payable to be paid in accordance with that agreement[10].

Unless such an agreement[11] in relation to the relevant year has been reached between the ratepayer and the billing authority before the demand notice is issued, a notice[12] must require the estimate of the amount payable to be paid by instalments[13].

A notice issued retrospectively in relation to a period of liability[14] must require payment of the amount payable on the expiry of such period (being not less than 14 days) after the day[15] of issue of the notice as is specified in it[16].

No payment in respect of the amount payable by a ratepayer in relation to a hereditament[17] for any chargeable financial year[18] (whether interim, final or sole) need be made unless a statutory notice[19] requires it[20].

1 As to billing authorities see para 5 ante.
2 For the meaning of 'ratepayer' see para 176 note 5 ante.
3 For the meaning of 'amount payable' see para 177 note 3 ante.
4 Ie under a notice to which the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 6(1) (as amended) (see para 179 ante) applies: see reg 7(3) (as amended: see note 5 infra).
5 Ibid reg 7(3) (reg 7(1)–(3) amended by SI 1993/616). The non-domestic rate instalment scheme referred to in the text is that set out in the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 7(1) (as amended), Sch 1 (as amended) (see paras 184–190 post): see reg 7(3) (as so amended).

Notwithstanding anything in reg 7(1)–(3) (as amended) (see also notes 6–13 infra), such an agreement may be entered into either before or after the demand notice concerned is issued, and may make provision for the cessation or adjustment of payments, and for the making of fresh estimates, in the event of the estimate mentioned in reg 6(1) (as amended) (see para 179 ante) turning out to be wrong; and if it is entered into after the demand notice has been issued, it may make provision dealing with the treatment for the purposes of the agreement of any sums paid in accordance with Sch 1 (as amended) before it was entered into: reg 7(4). The provisions of Pt II (regs 3–9) (as amended) (see paras 176 et seq ante, 184 et seq post) which provide for the repayment or crediting of any amount or the adjustment of payments due under a notice, including in particular Sch 1 para 7 (as amended) (see para 186 post), are to have effect subject to the Local Government Finance Act 1988 s 56(2), Sch 7 para 10(4) (multiplier set in substitution by special authority) (see para 86 note 6 ante): Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 3(4).
6 Ie under ibid reg 7(3) (as amended) (see the text and notes 1–5 supra): see reg 7(2) (as amended: see note 5 supra).
7 For the meaning of 'relevant year' see para 178 note 4 ante.
8 For the meaning of 'demand notice' see para 176 note 4 ante.
9 Ie a notice to which the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 6(1) (as amended) (see para 179 ante) applies: see reg 7(2) (as amended: see note 5 supra).
10 Ibid reg 7(2) (as amended: see note 5 supra).
11 Ie under ibid reg 7(3) (as amended) (see the text and notes 1–5 supra): see reg 7(1) (as amended: see note 5 supra).
12 Ie a notice to which ibid reg 6(1) (as amended) (see para 179 ante) applies: see reg 7(1) (as amended: see note 5 supra).
13 Ibid reg 7(1) (as amended: see note 5 supra). The instalments are to be paid in accordance with Sch 1 Pt I (paras 1–5) (as amended) (see para 184 post): see reg 7(1) (as so amended). Where such instalments are required, Sch 1 Pt II (paras 6–9) (as amended) (see paras 185–191 post) applies for their cessation or adjustment in the circumstances described in Sch 1 Pt II (as amended): reg 7(1) (as so amended).
14 Ie a notice to which ibid reg 6(2), (4) (see para 179 ante) applies: see reg 7(5).

15 As to the day on which a notice is issued see para 178 note 6 ante.
16 Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 7(5).
17 For the meaning of 'hereditament' see para 33 et seq ante.
18 For the purposes of the Local Government Finance Act 1988, chargeable financial years are financial years beginning in 1990 and subsequent years: s 145(1). For the meaning of 'financial year' for these purposes see para 1 note 1 ante.
19 Ie a notice served under the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, Pt II (as amended) (see paras 176 et seq ante, 184 et seq post): see reg 7(6).
20 Ibid reg 7(6).

184. Payment of the aggregate amount under the non-domestic rate instalment scheme. The provisions as to payment of the aggregate amount[1] apply where the demand notice is issued on or before 31 December in the relevant year[2]. The aggregate amount is payable in monthly instalments, the number of such instalments being[3] ten or, if less, the number of whole months remaining in the relevant year after the issue of the notice less one[4].

The months in which the instalments are payable must be uninterrupted, but subject to that[5] are to be such months in the relevant year as are specified in the notice; and the instalments are to be payable on such day in each month as is so specified[6].

Detailed provisions apply in respect of calculating the instalments due[7].

The demand notice must be issued at least 14 days before the day on which the first instalment is due under it[8].

1 Ie the provisions contained in the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 7(1), Sch 1 para 1 (as amended): see Sch 1 para 1(1). For the purposes of Sch 1 Pt I (paras 1–5) (as amended), 'aggregate amount' means the amount of the estimate referred to in reg 6(1) (as amended) (see para 179 ante), or if pursuant to reg 4(3) (see para 177 ante) the demand notice relates to more than one hereditament for which such an estimate is made, the aggregate of the amount of those estimates: Sch 1 para 5. For the meaning of 'demand notice' see para 176 note 4 ante.
2 Ibid Sch 1 para 1(1). These provisions have effect subject to Sch 1 para 3 (see note 7 infra): see Sch 1 para 1(1). For the meaning of 'relevant year' see para 178 note 4 ante.
Where the demand notice is issued in May, the number of instalments may be ten or the number ascertained in accordance with Sch 1 para 1(2) (as amended) (see the text and notes 3–4 infra), as the billing authority determines: Sch 1 para 1(2A) (added by SI 1991/1127; amended by SI 1993/616). As to billing authorities see para 5 ante.
Where the demand notice is issued between 1 January and 31 March in the relevant year, the aggregate amount is payable in a single instalment on such day as is specified in the notice: Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, Sch 1 para 2 (amended by SI 1991/1127).
3 Ie subject to the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, Sch 1 para 1(2A) (as added and amended) (see note 2 supra): see Sch 1 para 1(2) (as amended: see note 4 infra).
4 Ibid Sch 1 para 1(2) (amended by SI 1991/1127).
5 Ie and subject also to the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, Sch 1 para 4 (see the text and note 8 infra): see Sch 1 para 1(3).
6 Ibid Sch 1 para 1(3).
7 See ibid Sch 1 para 1(4), (5). Special provisions apply to cases where instalments payable in accordance with Sch 1 para 1 (as amended) would produce an amount for an instalment of less than £50: see Sch 1 para 3.
8 Ibid Sch 1 para 4.

185. Cessation and adjustment of instalments where conditions as to liability not fulfilled. Where the demand notice[1] has been served on a ratepayer[2] by a billing authority[3], and in respect of a day[4] in the relevant year[5] (the 'relevant day') after its issue the prescribed conditions as to liability[6] are not fulfilled as regards the ratepayer

and the hereditament[7] to which the notice relates[8], no payments of instalments falling due after the relevant day are payable under the notice in relation to the hereditament[9].

The billing authority must, on the relevant day or as soon as practicable after that day, serve a notice on the ratepayer stating the amount payable[10] in relation to the hereditament for the period in the relevant year up to the relevant day[11].

If these provisions that apply where the prescribed conditions as to liability are not fulfilled[12] apply in relation to a demand notice, and after the relevant day the conditions as to liability[13] are fulfilled again in the relevant year as regards the ratepayer and the hereditament concerned, a further notice must be served on him requiring payments with respect to the amount payable in relation to the hereditament for the period in the relevant year beginning with the day in respect of which the conditions are so fulfilled again[14].

1 For the meaning of 'demand notice' see para 176 note 4 ante.

2 For the meaning of 'ratepayer' see para 176 note 5 ante.

3 As to billing authorities see para 5 ante.

4 As to the day on which a notice is issued see para 178 note 6 ante.

5 For the meaning of 'relevant year' see para 178 note 4 ante.

6 Ie the conditions mentioned in the Local Government Finance Act 1988 s 43(1) (see para 60 ante) or s 45(1) (as amended) (see para 62 ante) (or, as the case may be, conditions as would be fulfilled if a list sent under s 41(5) (as amended) (see para 121 ante) were in force): see the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 7(1), Sch 1 para 6(1) (as amended: see note 8 infra). As to these conditions see para 178 note 5 ante.

7 For the meaning of 'hereditament' see para 33 et seq ante.

8 Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, Sch 1 para 6(1) (amended by SI 1990/145; SI 1993/616).

9 Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, Sch 1 para 6(2). This provision is subject to Sch 1 para 6(5), (6) (para 6(5) as amended) (see the text and notes 11–14 infra): see Sch 1 para 6(2).

10 For the meaning of 'amount payable' see para 177 note 3 ante. As to the repayment, crediting or adjustment of payments see para 183 note 5 ante.

11 Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, Sch 1 para 6(3) (amended by SI 1993/616). If the amount stated in the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, Sch 1 para 6(3) (as amended) is less than the aggregate amount of any instalments which have fallen due on or before the relevant day in relation to the hereditament, the difference is to go in the first instance to discharge any liability to pay the instalments (to the extent that they remain unpaid); and any residual overpayment in respect of any liability of the ratepayer under Pt II (regs 3–9) (as amended) (see paras 176 et seq ante, 186 et seq post):

(1) must be repaid if the ratepayer so requires (Sch 1 para 6(4)(a)); or

(2) in any other case must (as the billing authority determines) either be repaid or credited against any subsequent liability of the ratepayer to pay anything to the billing authority by way of non-domestic rate (Sch 1 para 6(4)(b)) (amended by SI 1993/616).

If the amount stated in the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, Sch 1 para 6(3) (as amended) is greater than the aggregate amount of any instalments which have fallen due in relation to the hereditament on or before the relevant day, the difference between the two is due from the ratepayer to the billing authority on the expiry of such period (being not less than 14 days) after the day of issue of the notice served under Sch 1 para 6(3) (as amended) as is specified in it: Sch 1 para 6(5) (amended by SI 1993/616).

12 Ie the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, Sch 1 para 6 (as amended): see Sch 1 para 6(6).

13 Ie those mentioned in the Local Government Finance Act 1988 s 43(1) (see para 60 ante) or s 45(1) (as amended) (see para 62 ante): see the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, Sch 1 para 6(6). As to these conditions see para 178 note 5 ante.

14 Ibid Sch 1 para 6(6). Regulations 5–8 (as amended) (see paras 178, 183 ante, 191 post) (and, so far as applicable, Sch 1) (as amended) are to apply to the further notice with respect to that period as if it were a demand notice and the conditions had not previously been fulfilled: Sch 1 para 6(6).

186. Cessation and adjustment of instalments where estimate based on false factor or assumption. Where the demand notice[1] has been served on a ratepayer[2] by a billing authority[3], any factor or assumption by reference to which the estimate made for the purpose of the notice[4] was calculated is shown to be false in respect of a day (the 'relevant day'), and where the circumstances affecting liability have not changed[5] as regards the hereditament[6] to which the notice relates[7], the billing authority must, on or as soon as practicable after the relevant day[8]:

(1) adjust the instalments (if any) payable on or after the adjustment day[9] (the 'remaining instalments') so that they accord with the amounts prescribed[10]; and

(2) serve a notice on the ratepayer stating the amount of the revised estimate[11] and the amount of any remaining instalment[12].

The amount of the revised estimate is the revised estimate of the billing authority of the amount payable[13] for the relevant year[14] in relation to the hereditament[15].

The aggregate amount of the remaining instalments payable is equal to the amount by which the revised estimate[16] exceeds the aggregate amount of the instalments payable under the demand notice before the adjustment day; and the amount of each remaining instalment (if there are more than one) must be calculated[17] as if references to the aggregate amount and to instalments were references to the aggregate amount of the remaining instalments and to the remaining instalments respectively[18].

If the revised estimate[19] exceeds the aggregate amount of the instalments payable under the demand notice before the adjustment day, but no instalments are payable under it on or after that day, the amount of the excess is due from the ratepayer to the billing authority in a single instalment on the expiry of such period (being not less than 14 days) after the day[20] of issue of the notice[21] as is specified in it[22]; and if in any case the revised estimate is less than the aggregate amount of the instalments payable before the adjustment day, any overpayment in respect of any liability of the ratepayer[23]: (a) must be repaid if the ratepayer so requires[24]; or (b) in any other case is (as the billing authority determines) either to be repaid or credited against any subsequent liability of the ratepayer to pay anything to it by way of non-domestic rate[25].

1 For the meaning of 'demand notice' see para 176 note 4 ante.

2 For the meaning of 'ratepayer' see para 176 note 5 ante.

3 As to billing authorities see para 5 ante.

4 Ie the estimate made under the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 6(1) (as amended) (see para 179 ante): see reg 7(1), Sch 1 para 7(1) (as amended: see note 7 infra).

5 Ie where the event mentioned in ibid Sch 1 para 6(1) (as amended) (see para 185 ante) has not occurred: see Sch 1 para 7(1) (as amended: see note 7 infra).

6 For the meaning of 'hereditament' see para 33 et seq ante.

7 Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, Sch 1 para 7(1) (amended by SI 1992/1512; SI 1993/616). The Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, Sch 1 para 7 (as amended) does not apply in a case to which Sch 1 para 7A (as added and amended) (see para 187 post) or Sch 1 para 7B (as added) (see para 188 post) applies, except as provided in Sch 1 para 9(2) (as substituted) (see para 190 post): Sch 1 para 7(1A) (added by SI 1992/1512).

8 Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, Sch 1 para 7(2) (substituted by SI 1991/141; amended by SI 1993/616).

9 For these purposes, 'adjustment day' means the day 14 days after the day the notice served under the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, Sch 1 para 7(2) (as substituted and amended) is issued: Sch 1 para 7(7). As to the repayment, crediting or adjustment of payments see para 183 note 5 ante.

10 Ibid Sch 1 para 7(2)(a) (Sch 1 para 7(2) as substituted: see note 8 supra). The amounts prescribed which are referred to in the text are those mentioned in Sch 1 para 7(4) (see the text and notes 16–18 infra): see Sch 1 para 7(2)(a) (as so substituted).

11 Ibid Sch 1 para 7(2)(b)(i) (Sch 1 para 7(2) as substituted: see note 8 supra). The amount prescribed referred to in the text is that mentioned in Sch 1 para 7(3) (as amended) (see the text and notes 13–15 infra): see Sch 1 para 7(2)(b)(i) (as so substituted).

12 Ibid Sch 1 para 7(2)(b)(ii) (as substituted: see note 10 supra).
13 For the meaning of 'amount payable' see para 177 note 3 ante.
14 For the meaning of 'relevant year' see para 178 note 4 ante.
15 Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, Sch 1 para 7(3) (amended by SI 1993/616). The revision of the estimate mentioned in the text is made on the assumption mentioned in the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 6(1) (as amended) (see para 179 ante) and as if the notice mentioned in that provision were the notice referred to in Sch 1 para 7(2) (as substituted and amended) (see the text and notes 8–12 supra): see Sch 1 para 7(3) (as so amended).
16 Ie mentioned in ibid Sch 1 para 7(3) (as amended) (see the text and notes 13–15 supra): see Sch 1 para 7(4).
17 Ie in accordance with ibid Sch 1 para 1(4), (5) (see para 184 ante): see Sch 1 para 7(4).
18 Ibid Sch 1 para 7(4).
19 Ie mentioned in ibid Sch 1 para 7(3) (as amended) (see the text and notes 13–15 supra): see Sch 1 para 7(5) (as amended: see note 22 infra).
20 As to the day on which a notice is issued see para 178 note 6 ante.
21 Ie served under the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, Sch 1 para 7(2) (as substituted and amended) (see the text and notes 8–12 supra): see Sch 1 para 7(5) (as amended: see note 22 infra).
22 Ibid Sch 1 para 7(5) (amended by SI 1990/145; SI 1993/616).
23 Ie under the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, Pt II (regs 3–9) (as amended) (see paras 176 et seq ante, 187 et seq post): see Sch 1 para 7(5) (as amended: see note 22 supra).
24 Ibid Sch 1 para 7(5)(a).
25 Ibid Sch 1 para 7(5)(b) (amended by SI 1993/616).

Where a notice has been given under the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, Sch 1 para 7(2) (as substituted and amended) (see the text and notes 8–12 supra), in the operation of Sch 1 para 7 (as amended) as respects any further notice that may fall to be given under it, references in Sch 1 para 7 (as amended) to the demand notice and to amounts in respect of instalments payable under it are to be construed (so far as the context permits) as references to the demand notice, and amounts in respect of instalments payable under the notice, as from time to time previously adjusted under Sch 1 para 7 (as amended); and in calculating the aggregate amount of instalments payable under a demand notice before the adjustment day for the purposes of Sch 1 para 7(4), (5) (Sch 1 para 7(5) as amended) (see also the text and notes 19–24 supra) in consequence of the calculation of the revised estimate mentioned in Sch 1 para 7(3) (as amended) (see the text and notes 13–15 supra), there is not to count as so payable any amount in respect of such instalments which has fallen to be repaid (or credited) under the Local Government Finance Act 1988 s 56(2), Sch 7 para 10(4) (multiplier set in substitution by special authority) (see para 86 note 6 ante) or (on the occasion of the giving of a previous notice under the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, Sch 1 para 7(2) (as substituted and amended)) under Sch 1 para 7(5) (as amended), or has been paid (or credited) by way of interest under the Non-Domestic Rating (Payment of Interest) Regulations 1990, SI 1990/1904 (as amended) (as to which see para 128 ante): Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, Sch 1 para 7(6) (amended by SI 1991/141).

187. Cessation and adjustment of instalments where notice of revised estimates not served before advent of transitional provisions. In circumstances where:

(1) the demand notice[1] has been served on a ratepayer[2] by a billing authority[3];
(2) the authority's estimate[4] for the purposes of the notice (the 'original estimate') was made before the coming into force of transitional charging provisions[5];
(3) the original estimate is shown to be false[6];
(4) the specified event[7] has not occurred as regards the hereditament[8] to which the demand notice relates[9]; and
(5) no notice[10] has been served[11],

the billing authority must, as soon as practicable after the day on which the transitional provisions mentioned in head (2) above come into force[12]:

(a) adjust the instalments payable on or after the transitional adjustment day[13] (the 'remaining instalments') so that they accord with the instalments which would

have been payable under the demand notice if those transitional provisions had been in force when the original estimate was made[14], and that estimate had been made with reference to the transitional provisions[15]; and

(b) serve a transitional adjustment notice on the ratepayer stating:
   (i) that it takes account of the transitional provisions[16];
   (ii) the amount of the original estimate[17];
   (iii) the amount of the revised estimate (the '1992 Act estimate')[18];
   (iv) the amount of the difference between the amounts of the original estimate and the 1992 Act estimate[19];
   (v) the amount of the instalments which would have been payable under the demand notice if the transitional provisions[20] had been in force when the original estimate was made and that estimate had been made with reference to those transitional provisions[21];
   (vi) the amount of each remaining instalment[22];
   (vii) the day on which each such instalment is payable, being such of the days specified in the demand notice as fall after the transitional adjustment day[23]; and
   (viii) the amount of any excess that has been determined[24].

A transitional adjustment notice must be served at least 14 clear days before the day on which an instalment falls to be paid under the demand notice[25].

In so far as the aggregate of any amounts paid (by reference to the original estimate) before the day[26] on which the transitional adjustment notice is issued exceeds the aggregate of the amounts that would have been payable before that day if the original estimate had been the same as the 1992 Act estimate, the amount of the excess[27]: (A) must be repaid if the ratepayer so requires[28]; (B) in any other case, must (as the billing authority determines) either be repaid or be credited against any subsequent liability of the ratepayer to pay anything to the billing authority by way of non-domestic rate[29].

1 For the meaning of 'demand notice' see para 176 note 4 ante.
2 For the meaning of 'ratepayer' see para 176 note 5 ante.
3 Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 7(1), Sch 1 para 7A(1)(a) (Sch 1 para 7A added by SI 1992/1512; the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, Sch 1 para 7A(1)(a), (2), (5), (7)(b) amended by SI 1993/616). As to billing authorities see para 5 ante.
4 Ie under the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 6(1) (as amended) (see para 179 ante): see Sch 1 para 7A(1)(b) (as added: see note 3 supra).
5 Ibid Sch 1 para 7A(1)(b) (as added: see note 3 supra). The provisions referred to are those of the Non-Domestic Rating Act 1992 ss 1–3 (s 2(2)(a) as amended) (transitional charging provisions): see the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, Sch 1 para 7A(1)(b) (as so added).

It should be noted that the effect of the transitional provisions mentioned in this paragraph is limited to non-domestic rating lists for the period 1990 to 1995 and that the provisions are set out for historical reasons only, their practical significance having ceased.

6 Ibid Sch 1 para 7A(1)(c) (as added: see note 3 supra). Head (3) in the text refers to the situation that arose when the original estimate was shown to be false in consequence of the provisions of the Non-Domestic Rating Act 1992 (which made further provision with respect to non-domestic rating for the period beginning with 11 March 1992 and ending with 31 March 1995: see preamble): see the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, Sch 1 para 7A(1)(c) (as so added). See note 5 supra.
7 Ie under ibid Sch 1 para 6(1) (as amended) (see para 185 ante): see Sch 1 para 7A(1)(d) (as added: see note 3 supra).
8 For the meaning of 'hereditament' see para 33 et seq ante.
9 Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, Sch 1 para 7A(1)(d) (as added: see note 3 supra). See note 5 supra.
10 Ie under ibid Sch 1 para 7(2) (as substituted and amended) (see para 186 ante): see Sch 1 para 7A(1)(e) (as added: see note 3 supra).

11 Ibid Sch 1 para 7A(1)(e) (as added: see note 3 supra). See note 5 supra.
12 Ibid Sch 1 para 7A(2) (as added and amended: see note 3 supra). See note 5 supra.
13 For these purposes, 'transitional adjustment day' means the day 14 days after the day on which the transitional adjustment notice is issued: ibid Sch 1 para 7A(8) (as added: see note 3 supra). As to the repayment, crediting or adjustment of payments see para 183 note 5 ante.
14 Ibid Sch 1 para 7A(2)(a)(i) (as added: see note 3 supra). See note 5 supra.
15 Ibid Sch 1 para 7A(2)(a)(ii) (as added: see note 3 supra). See note 5 supra.
16 Ibid Sch 1 para 7A(2)(b)(i) (as added: see note 3 supra). The provisions referred to are those of the Non-Domestic Rating Act 1992: see the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, Sch 1 para 7A(2)(b)(i) (as so added). The statement required to be given must be in the following terms: 'This notice takes account of savings on your rates bill announced in the Budget and made by the Non-Domestic Rating Act 1992': Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, Sch 1 para 7A(4) (as added: see note 3 supra). See note 5 supra.
17 Ibid Sch 1 para 7A(2)(b)(ii) (as added: see note 3 supra). See note 5 supra.
18 Ibid Sch 1 para 7A(2)(b)(iii) (as added: see note 3 supra). The amount referred to in the text is the revised estimate of the billing authority of the amount payable for the relevant year in relation to the hereditament, having regard to the Non-Domestic Rating Act 1992 ss 1–3 (s 2(2)(a) as amended) and made on the assumption mentioned in the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 6(1) (as amended) (see para 179 ante) and as if the notice mentioned in that paragraph were the transitional adjustment notice: Sch 1 para 7A(5) (as added and amended: see note 3 supra). See note 5 supra.
19 Ibid Sch 1 para 7A(2)(b)(iv) (as added: see note 3 supra). See note 5 supra.
20 Ie the Non-Domestic Rating Act 1992 ss 1–3 (s 2(2)(a) as amended): see the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, Sch 1 para 7A(2)(b)(v) (as added: see note 3 supra).
21 Ibid Sch 1 para 7A(2)(b)(v) (as added: see note 3 supra). See note 5 supra.
22 Ibid Sch 1 para 7A(2)(b)(vi) (as added: see note 3 supra). See note 5 supra.
23 Ibid Sch 1 para 7A(2)(b)(vii) (as added: see note 3 supra). See note 5 supra.
24 Ibid Sch 1 para 7A(2)(b)(viii) (as added: see note 3 supra). The excess referred to in the text is determined in accordance with Sch 1 para 7A(7) (as added and amended) (see notes 26–29 infra): see Sch 1 para 7A(2)(b)(viii) (as so added). For the purposes of Sch 1 para 7A(2) (as added and amended), where the demand notice relates to more than one hereditament, references to the amount of the original estimate and the amount of the '1992 Act estimate' (see head (b)(iii) in the text) are to be construed as references to the aggregate of the amount of the original estimates and the aggregate of the amounts of the '1992 Act estimates' respectively: Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, Sch 1 para 7A(6) (as so added). See note 5 supra.
25 Ibid Sch 1 para 7A(3) (as added: see note 3 supra). A transitional adjustment notice need not be given on a single sheet of paper, but if more than one sheet is used, the sheets are to be issued together, whether or not attached, so as to comprise one notice: Sch 1 para 7A(9) (as so added). See note 5 supra.
26 As to the day on which a notice is issued see para 178 note 6 ante.
27 Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, Sch 1 para 7A(7) (as added: see note 3 supra). See note 5 supra.
28 Ibid Sch 1 para 7A(7)(a) (as added: see note 3 supra). See note 5 supra.
29 Ibid Sch 1 para 7A(7)(b) (as added and amended: see note 3 supra). See note 5 supra.

188. Cessation and adjustment of instalments where notice of revised estimates proved false by transitional provisions. Where an original estimate has been proved false by transitional charging provisions and a revised notice has already been served[1], the billing authority[2] must as soon as practicable after the day on which the transitional charging provisions come into force[3]:

(1) adjust the instalments payable on or after the transitional adjustment day[4] (the 'remaining instalments') so that they accord with the instalments which would have been payable under the demand notice[5] (and any notice given[6] in relation to the demand notice)[7] if the transitional provisions had been in force when the original estimate was made[8], and that estimate had been made with reference to the transitional provisions[9]; and

(2) serve a notice (a 'transitional adjustment notice') on the ratepayer[10] stating:
   (a) that it takes account of the transitional provisions[11];

(b) the amount of the revised estimate of which notice has been given[12] (or, if there has been more than one revised estimate, the last)[13];
(c) the amount of the estimate (the '1992 Act estimate')[14];
(d) the amount of the difference between the amounts of the revised estimate[15] (or, if there has been more than one revised estimate, the last) and the 1992 Act estimate[16];
(e) the amount of the instalments which would have been payable under the demand notice (and any notice given[17] in relation to the demand notice) if the transitional provisions[18] had been in force when the original estimate was made and that estimate had been made with reference to the transitional provisions[19];
(f) the amount of each remaining instalment[20];
(g) the day on which each such instalment is payable, being such of the days specified in the demand notice as fall after the transitional adjustment day[21]; and
(h) the amount of any excess that has been determined[22].

A transitional adjustment notice must be served at least 14 clear days before the day on which an instalment falls to be paid under the demand notice[23].

In so far as the aggregate of any amounts paid (by reference to the original estimate and any revised estimate of which notice has been given[24]) before the day[25] on which the transitional adjustment notice is issued exceeds the aggregate of the amounts that would have been payable before that day if the original estimate had been the same as the 1992 Act estimate, the amount of the excess[26]: (i) must be repaid if the ratepayer so requires[27]; and (ii) in any other case, is (as the billing authority determines) either to be repaid or to be credited against any subsequent liability of the ratepayer to pay anything to the billing authority by way of non-domestic rate[28].

1 Ie where:
(1) the events mentioned in the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 7(1), Sch 1 para 7A(1)(a)–(c) (as added and amended) (see para 187 ante) have occurred (Sch 1 para 7B(1)(a) (Sch 1 para 7B added by SI 1992/1512));
(2) the event mentioned in the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, Sch 1 para 6(1) (as amended) (see para 185 ante) has not occurred as regards the hereditament to which the demand notice relates (Sch 1 para 7B(1)(b) (as so added)); and
(3) a notice has been served in accordance with Sch 1 para 7(2) (as substituted and amended) (see para 186 ante) (Sch 1 para 7B(1)(c) (as so added)).

It should be noted that the effect of the transitional provisions mentioned in this paragraph and in para 187 ante is limited to non-domestic rating lists for the period 1990 to 1995 and that the provisions are set out for historical reasons only, their practical significance having ceased.

2 As to billing authorities see para 5 ante.

3 Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, Sch 1 para 7A(2) (Sch 1 para 7A added by SI 1992/1512; the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, Sch 1 para 7A(2), (5), (7)(b) amended by SI 1993/616); applied by the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, Sch 1 para 7B(2) (as added: see note 1 supra). The text refers to the transitional charging provisions contained in the Non-Domestic Rating Act 1992 ss 1–3 (s 2(2)(a) as amended): see the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, Sch 1 para 7A(2) (as so added, amended and applied). See note 1 supra.

4 In ibid Sch 1 para 7A (as added, amended, applied and modified), 'transitional adjustment day' means the day 14 days after the day on which the transitional adjustment notice is issued: Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, Sch 1 para 7A(8) (as added: see note 3 supra); applied by Sch 1 para 7B(2) (as added: see note 1 supra). As to the repayment, crediting or adjustment of payments see para 183 note 5 ante.

5 For the meaning of 'demand notice' see para 176 note 4 ante.

6 Ie under the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, Sch 1 para 7(2) (as substituted and amended) (see para 186 ante): see Sch 1 para 7A(2)(a) (as added: see note 3 supra); applied and modified by Sch 1 para 7B(2)(a) (as added: see note 1 supra).

7 Ibid Sch 1 para 7A(2)(a) (as added: see note 3 supra); applied and modified by Sch 1 para 7B(2)(a) (as added: see note 1 supra). See note 1 supra.

8 Ibid Sch 1 para 7A(2)(a)(i) (as added: see note 3 supra); applied by Sch 1 para 7B(2) (as added: see note 1 supra). See note 1 supra.

9 Ibid Sch 1 para 7A(2)(a)(ii) (as added: see note 3 supra); applied by Sch 1 para 7B(2) (as added: see note 1 supra). See note 1 supra.

10 For the meaning of 'ratepayer' see para 176 note 5 ante.

11 Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, Sch 1 para 7A(2)(b)(i) (as added: see note 3 supra); applied by Sch 1 para 7B(2) (as added: see note 1 supra). The statement required to be given must be in the following terms: 'This notice takes account of savings on your rates bill announced in the Budget and made by the Non-Domestic Rating Act 1992': Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, Sch 1 para 7A(4) (as added: see note 3 supra); applied by Sch 1 para 7B(2) (as added: see note 1 supra). See note 1 supra.

12 Ie given under ibid Sch 1 para 7(2) (as substituted and amended) (see para 186 ante): see Sch 1 para 7A(2)(b)(ii) (as added: see note 3 supra); applied and modified by Sch 1 para 7B(2)(b) (as added: see note 1 supra).

13 Ibid Sch 1 para 7A(2)(b)(ii) (as added: see note 3 supra); applied and modified by Sch 1 para 7B(2)(b) (as added: see note 1 supra). See note 1 supra.

14 Ibid Sch 1 para 7A(2)(b)(iii) (as added: see note 3 supra); applied by Sch 1 para 7B(2) (as added: see note 1 supra). The amount referred to in the text is the revised estimate of the billing authority of the amount payable for the relevant year in relation to the hereditament, having regard to the Non-Domestic Rating Act 1992 ss 1–3 (s 2(2)(a) as amended) and made on the assumption mentioned in the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 6(1) (as amended) (see para 179 ante) and as if the notice mentioned in that paragraph were the transitional adjustment notice: Sch 1 para 7A(5) (as added and amended: see note 3 supra); applied by Sch 1 para 7B(2) (as added: see note 1 supra). See note 1 supra.

15 Ie of which notice has been given under ibid Sch 1 para 7(2) (as substituted and amended) (see para 186 ante): see Sch 1 para 7A(2)(b)(iv) (as added: see note 3 supra); applied and modified by Sch 1 para 7B(2)(b) (as added: see note 1 supra).

16 Ibid Sch 1 para 7A(2)(b)(iv) (as added: see note 3 supra); applied and modified by Sch 1 para 7B(2)(b) (as added: see note 1 supra). See note 1 supra.

17 Ie under ibid Sch 1 para 7(2) (as substituted and amended) (see para 186 ante): see Sch 1 para 7A(2)(b)(v) (substituted by Sch 1 para 7B(2)(c) (as added: see note 1 supra)).

18 Ie the Non-Domestic Rating Act 1992 ss 1–3 (s 2(2)(a) as amended): see the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, Sch 1 para 7A(2)(b)(v) (substituted by Sch 1 para 7B(2)(c) (as added: see note 1 supra)). See note 1 supra.

19 Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, Sch 1 para 7A(2)(b)(v) (substituted by Sch 1 para 7B(2)(c) (as added: see note 1 supra)). See note 1 supra.

20 Ibid Sch 1 para 7A(2)(b)(vi) (as added: see note 3 supra); applied by Sch 1 para 7B(2) (as added: see note 1 supra). See note 1 supra.

21 Ibid Sch 1 para 7A(2)(b)(vii) (as added: see note 3 supra); applied by Sch 1 para 7B(2) (as added: see note 1 supra). See note 1 supra.

22 Ibid Sch 1 para 7A(2)(b)(viii) (as added: see note 3 supra); applied by Sch 1 para 7B(2) (as added: see note 1 supra). The excess is determined in accordance with Sch 1 para 7A(7) (as added, amended, applied and modified) (see the text and notes 24–28 infra): see Sch 1 para 7A(2)(b)(viii) (as so added and applied).

For the purposes of Sch 1 para 7A(2) (as added, amended and applied), where the demand notice (and any notice given under Sch 1 para 7(2) (as substituted and amended) (see para 186 ante) in relation to the demand notice) relates to more than one hereditament, references to the amount of the revised estimate of which notice has been given under Sch 1 para 7(2) (as substituted and amended) (or, if there has been more than one revised estimate, the last) and the amount of the 1992 Act estimate must be construed as references to the aggregate of the amount of the revised estimate of which notice has been given under Sch 1 para 7(2) (as substituted and amended) (or, if there has been more than one revised estimate, the last) and the aggregate of the amounts of the 1992 Act estimates respectively: Sch 1 para 7A(6) (as added: see note 3 supra); applied and modified by Sch 1 para 7B(2)(b), (d) (as added: see note 1 supra). See note 1 supra.

23 Ibid Sch 1 para 7A(3) (as added: see note 3 supra); applied by Sch 1 para 7B(2) (as added: see note 1 supra). A transitional adjustment notice need not be given on a single sheet of paper, but if more than one sheet is used, the sheets are to be issued together, whether or not attached, so as to comprise one notice: Sch 1 para 7A(9) (as added: see note 3 supra); applied by Sch 1 para 7B(2) (as added: see note 1 supra). See note 1 supra.

24 Ie given under ibid Sch 1 para 7(2) (as substituted and amended) (see para 186 ante): see Sch 1 para 7A(7) (as added: see note 3 supra); applied and modified by Sch 1 para 7B(2)(e) (as added: see note 1 supra).

25 As to the day on which a notice is issued see para 178 note 6 ante.
26 Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, Sch 1 para 7A(7) (as added: see note 3 supra); applied and modified by Sch 1 para 7B(2)(e) (as added: see note 1 supra). See note 1 supra.
27 Ibid Sch 1 para 7A(7)(a) (as added: see note 3 supra); applied by Sch 1 para 7B(2) (as added: see note 1 supra). See note 1 supra.
28 Ibid Sch 1 para 7A(7)(b) (as added and amended: see note 3 supra); applied by Sch 1 para 7B(2) (as added: see note 1 supra). See note 1 supra.

189. Cessation and adjustment of instalments arising from provisions for the 1993 financial year. Where:

(1) a demand notice[1] has been served on a ratepayer[2] by a billing authority[3];
(2) the authority's estimate[4] for the purposes of the notice was made before the coming into force of provisions which limited increases in non-domestic rating for the 1993 financial year[5]; and
(3) the estimate is, in consequence of those provisions[6], shown to be false[7];

certain provisions are to apply with modifications[8].

1 For the meaning of 'demand notice' see para 176 note 4 ante.
2 For the meaning of 'ratepayer' see para 176 note 5 ante.
3 Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 7(1), Sch 1 para 7C(a) (Sch 1 para 7C added by SI 1993/1493). As to billing authorities see para 5 ante.

It should be noted that the effect of the transitional provisions mentioned in this paragraph and in paras 187–188 ante is limited to non-domestic rating lists for the period 1990 to 1995 and that the provisions are set out for historical reasons only, their practical significance having ceased.

4 Ie under the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 6(1) (as amended) (see para 179 ante): see Sch 1 para 7C(b) (as added: see note 3 supra).
5 Ibid Sch 1 para 7C(b) (as added: see note 3 supra). The provisions referred to are those of the Non-Domestic Rating Act 1993 s 1: see the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, Sch 1 para 7C(b) (as so added). See note 3 supra.
6 Ie the Non-Domestic Rating Act 1993: see the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, Sch 1 para 7C(c) (as added: see note 3 supra).
7 Ibid Sch 1 para 7C(c) (as added: see note 3 supra). See note 3 supra.
8 Ie ibid Sch 1 para 7A (as added and amended) and Sch 1 para 7B (as added) (see para 188 ante) apply as if for references to the Non-Domestic Rating Act 1992 and to the Non-Domestic Rating Act 1992 ss 1–3 (s 2(2)(a) as amended) (see para 188 ante) there were substituted references to the Non-Domestic Rating Act 1993 and to the Non-Domestic Rating Act 1993 s 1 and, in particular, as if for the statement mentioned in the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, Sch 1 para 7A(4) (as added and applied) (see para 187 ante) there were substituted the following statement: 'This notice takes account of savings on your rates bill announced in the Budget and made by the Non-Domestic Rating Act 1993': Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, Sch 7C (as added: see note 3 supra). See note 3 supra. As to the repayment, crediting or adjustment of payments see para 183 note 5 ante.

190. Multiple hereditaments and adjustments. Adjustments may be made if[1] the demand notice[2] relates to more than one hereditament[3] for which an estimate[4] is made[5].

More than one adjustment of amounts paid or payable[6] under a demand notice may be made as the circumstances require[7].

1 Ie pursuant to the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 4(3) (see para 177 ante): see reg 7(1), Sch 1 para 8.
2 For the meaning of 'demand notice' see para 176 note 4 ante.
3 For the meaning of 'hereditament' see para 33 et seq ante.
4 Ie such an estimate as is referred to in the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 6(1) (as amended) (see para 179 ante): see Sch 1 para 8.
5 See ibid Sch 1 para 8. The adjustments are as follows:
(1) references in Sch 1 paras 6(1)–(5) (as amended), 7(1) (as amended), 7(3) (as amended), 7A(1)(d)

(as added), 7A(5) (as added and amended), 7B(1)(b) (as added) (see paras 185–188 ante) to 'the hereditament' are to be construed as references to all the hereditaments, so that Sch 1 para 6 (as amended) (see para 185 ante) applies only if the event mentioned in Sch 1 para 6(1) (as amended) (see para 185 ante) has occurred in relation to all of them (Sch 1 para 8(a) (amended by SI 1992/1512));

(2) the relevant day is to be determined for the purposes of the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, Sch 1 para 6 (as amended) by reference to the hereditament with respect to which the conditions referred to in Sch 1 para 6(1) (as amended) were (or, as the case may be, would be) last fulfilled (Sch 1 para 8(b));

(3) the reference to 'the hereditament concerned' in Sch 1 para 6(6) (see para 185 ante) is to be construed as a reference to any of the hereditaments concerned (Sch 1 para 8(c)); and

(4) where neither the conditions mentioned in the Local Government Finance Act 1988 s 43(1) (see para 60 ante) nor those mentioned in s 45(1) (as amended) (see para 62 ante) are fulfilled with respect to a hereditament to which the notice relates but the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, Sch 1 para 6 (as amended) does not apply by virtue of head (1) supra, references in Sch 1 para 7 (as amended) (see para 186 ante) to the revised estimate mentioned in Sch 1 para 7(3) (as amended) (see para 186 ante) are to be construed in so far as concerns that hereditament as references to the amount payable in relation to the hereditament for the period in the relevant year up to the day on which the conditions were last fulfilled (Sch 1 para 8(d)).

As to the conditions in the Local Government Finance Act 1988 s 43(1), s 45(1) (as amended) see para 178 note 5 ante.

6 For the meaning of 'amount payable' see para 177 note 3 ante.

7 Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, Sch 1 para 9(1) (Sch 1 para 9 substituted by SI 1992/1512). The adjustment of amounts is to be made under the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, Sch 1 Pt II (paras 6–9) (as amended) (see para 185 et seq ante): see Sch 1 para 9(1) (as so substituted). Where a further adjustment falls to be made under Sch 1 (as amended) (see para 184 et seq ante) after the service of a transitional adjustment notice pursuant to Sch 1 para 7A (as added and amended) (see para 187 ante) or Sch 1 para 7B (as added) (see para 188 ante):

(1) Sch 1 para 7 (as amended) (see para 186 ante) is to apply as if (so far as the context permits) references to the demand notice and to amounts in respect of instalments payable under it were references to the transitional adjustment notice and to the remaining instalments payable under it (Sch 1 para 9(2)(a) (as so substituted)); and

(2) in calculating the aggregate amount of instalments payable under a demand notice before the adjustment day for the purposes of Sch 1 para 7(4), (5) (Sch 1 para 7(5) as amended) (see para 186 ante) in consequence of the revised estimate mentioned in Sch 1 para 7(3) (as amended) (see para 186 ante), and without prejudice to Sch 1 para 7(6) (as amended) (see para 186 ante), there must not count as so payable any amount in respect of such instalments which has fallen to be repaid (or credited) under Sch 1 para 7A (as added and amended) or Sch 1 para 7B (as added), as the case may be (Sch 1 para 9(2)(b) (as so substituted)).

As to the repayment, crediting or adjustment of payments see para 183 note 5 ante.

191. Failure to pay instalments. Where:

(1) a demand notice[1] has been served by a billing authority[2] on a ratepayer[3];

(2) instalments are payable under the notice in accordance with the non-domestic rate instalment scheme[4]; and

(3) any such instalment is not paid in accordance with the scheme[5],

the billing authority must (unless all the instalments have fallen due) serve a further notice on the ratepayer stating the instalments required to be paid[6].

If, after the service of such a further notice[7], the ratepayer[8]:

(a) fails to pay, before the expiry of the period of seven days beginning with the day of service of the further notice, any instalments which fall due before the expiry of that period under the demand notice concerned[9]; or

(b) fails to pay any instalment which falls due after the expiry of that period under the demand notice concerned on or before the day on which it so falls due[10],

the unpaid balance of the estimated amount[11] becomes payable by him at the expiry of a further period of seven days beginning with the day of the failure[12].

If any factor or assumption by reference to which the estimated amount was calculated in relation to a hereditament is shown to be false before the amount payable is capable of final determination[13], the billing authority may (and if so required by the ratepayer must) make a calculation of the appropriate amount[14] with a view to adjusting the ratepayer's liability in respect of the estimated amount and (as appropriate) to[15]:

(i) requiring an interim payment from the ratepayer if the appropriate amount is greater than the estimated amount[16]; or

(ii) making an interim repayment to the ratepayer if the appropriate amount is less than the amount of the estimated amount paid[17].

On calculating the appropriate amount, the billing authority must notify the ratepayer in writing of it[18].

1 For the meaning of 'demand notice' see para 176 note 4 ante. As to service see para 178 ante.

2 As to billing authorities see para 5 ante.

3 Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 8(1)(a) (amended by SI 1993/616). For the meaning of 'ratepayer' see para 176 note 5 ante.

4 Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 8(1)(b). The text refers to instalments payable under the notice in accordance with reg 7(1), Sch 1 (as amended) (see paras 183–190 ante): see reg 8(1)(b).

5 Ibid reg 8(1)(c). The text refers to any such instalment not being paid in accordance with Sch 1 (as amended) (see paras 183–190 ante): see reg 8(1)(c).

6 Ibid reg 8(1) (amended by SI 1993/616).

7 Ie service of a further notice under the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 8(1) (as amended) (see the text and notes 1–6 supra): see reg 8(2).

8 Ibid reg 8(2).

9 Ibid reg 8(2)(a).

10 Ibid reg 8(2)(b).

11 For these purposes, 'estimated amount' means the amount last estimated under ibid reg 6(1) (as amended) (see para 179 ante) for the purposes of the demand notice mentioned in reg 8(1)(a) (as amended) (see head (1) in the text) or any subsequent notice given under Sch 1 para 7(2) (as substituted and amended) (see para 186 ante) or, as the case may be, Sch 1 para 7A (as added and amended) (see para 187 ante) or Sch 1 para 7B (as added) (see para 188 ante) prior to the failure mentioned in reg 8(2), save that if in any case an interim adjustment has been required or made under reg 8(5) (as amended) (see the text and notes 13–17 infra) in relation to a hereditament, it means as regards the next payment, repayment or interim adjustment in relation to the hereditament under reg 8 (if any), the appropriate amount by reference to which the previous interim adjustment was so made: reg 8(8) (amended by SI 1992/1512). For the meaning of 'hereditament' see para 33 et seq ante.

12 Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 8(2). If the unpaid balance of the estimated amount has become payable under reg 8(2), and on calculating the amount payable for the relevant year in relation to a hereditament to which the demand notice concerned relates that amount proves to be greater than the estimated amount in relation to the hereditament, an additional sum equal to the difference between the two is, on the service by the billing authority on the ratepayer of a notice stating the amount payable, to be due from the person to the authority on the expiry of such period (being not less than 14 days) after the day of issue of the notice as is specified in it: reg 8(3) (amended by SI 1993/616).

However, if the unpaid balance of the estimated amount has become payable under the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 8(2), and on calculating the amount payable for the relevant year in relation to a hereditament to which the demand notice concerned relates that amount proves to be less than the estimated amount in relation to the hereditament, the billing authority is to notify the ratepayer in writing of the amount payable: reg 8(4) (amended by SI 1993/616). Any overpayment in respect of any liability of the ratepayer under the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, Pt II (regs 3–9) (as amended) (see para 176 et seq ante) is to be repaid if the ratepayer so requires (reg 8(4)(a)); or in any other case is (as the billing authority determines) either to be repaid or to be credited against any subsequent liability of the ratepayer to pay anything to the billing authority by way of non-domestic rate (reg 8(4)(b) (amended by SI 1993/616)). For the meaning of 'amount payable' see para 177 note 3 ante.

13 Ie for the purposes of the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 8(3), (4) (as amended) (see note 12 supra): see reg 8(5) (as amended: see note 15 infra).

14 For these purposes, the 'appropriate amount' is the amount which would be required to be paid under a demand notice if such a notice were issued with respect to the relevant year, the ratepayer and the hereditament on the day that the notice under ibid reg 8(7) (as amended) (see the text and note 18 infra) is issued or the repayment under reg 8(5)(b) (see head (ii) in the text) is made (as the case may be); and more than one calculation of the appropriate amount and interim payment or repayment may be required or made under reg 8(5) (as amended) according to the circumstances: reg 8(6), (8).
15 Ibid reg 8(5) (amended by SI 1993/616).
16 Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 8(5)(a).
17 Ibid reg 8(5)(b).
18 Ibid reg 8(7) (amended by SI 1993/616). A payment required under the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 8(5)(a) (as amended) (see head (i) in the text) is due from the ratepayer to the billing authority on the expiry of such period (being not less than 14 days) after the day of issue of the notice as is specified in it: reg 8(7) (as so amended).

(C) Security for Unpaid Rates

192. Security for unpaid rates. A billing authority[1] and a person liable to pay to it an amount[2] may enter into an agreement that[3]:

(1) any interest of his in the hereditament[4] as regards which the liability arises is to be charged to secure payment of the amount[5]; and
(2) in consideration of the charge, the authority will take no steps, for a period specified in the agreement, to recover any payment in respect of the amount[6].

Such an agreement[7]:

(a) may also extend to any further amount the person may become liable to pay to the authority under the statutory provisions governing liability[8] as regards the hereditament[9];
(b) may provide for the payment of interest on sums outstanding[10];
(c) may provide for interest payable to be secured by the charge[11].

1 As to billing authorities see para 5 ante.
2 Ie under the Local Government Finance Act 1988 s 43 (as amended) (see paras 60, 70 et seq ante) or s 45 (as amended) (see paras 62–63, 78–79 ante): see the Non-Domestic Rating (Collection and Enforcement) (Local Lists) (Amendment and Miscellaneous Provision) Regulations 1991, SI 1991/141, reg 5(1) (as amended: see note 3 infra).
3 Non-Domestic Rating (Collection and Enforcement) (Local Lists) (Amendment and Miscellaneous Provision) Regulations 1991, SI 1991/141, reg 5(1) (amended by SI 1993/616).
4 For the meaning of 'hereditament' see para 33 et seq ante.
5 Non-Domestic Rating (Collection and Enforcement) (Local Lists) (Amendment and Miscellaneous Provision) Regulations 1991, SI 1991/141, reg 5(1)(a).
6 Ibid reg 5(1)(b). The period specified for the purposes of head (2) in the text may not exceed three years: reg 5(2).
7 Ibid reg 5(3).
8 Ie under the Local Government Finance Act 1988 s 43 (as amended) (see paras 60, 70 et seq ante) or s 45 (as amended) (see paras 62–63, 78–79 ante): see the Non-Domestic Rating (Collection and Enforcement) (Local Lists) (Amendment and Miscellaneous Provision) Regulations 1991, SI 1991/141, reg 5(3)(a).
9 Ibid reg 5(3)(a).
10 Ibid reg 5(3)(b).
11 Ibid reg 5(3)(c).

B. ENFORCEMENT

193. Reminder notices and liability orders: application. A sum which has become payable to a billing authority[1] and which has not been paid[2] is recoverable under a liability order[3], or in a court of competent jurisdiction[4]. Before a billing authority applies for a liability order, it must serve on the person against whom the

application is to be made a notice ('reminder notice')[5] stating every amount in respect of which the authority is to make the application[6]. A reminder notice may be served in respect of an amount at any time after it has become due[7].

However, a reminder notice need not be served on a person who has been served with a further notice[8] in respect of the amount concerned where there has been a failure to pay[9] in relation to that notice[10].

If an amount which has fallen due owing to such a failure to pay[11] is wholly or partly unpaid, or if the amount stated in a reminder notice[12] is wholly or partly unpaid at the expiry of the period of seven days beginning with the day on which the notice was served, the billing authority may apply to a magistrates' court for an order against the person by whom it is payable[13]. Such an application is to be instituted by making complaint to a justice of the peace[14], and requesting the issue of a summons[15] directed to that person to appear before the court to show why he has not paid the sum which is outstanding[16]. No liability order may be made in pursuance of a summons issued in this way unless 14 days have elapsed since the day on which the summons was served[17].

A warrant for the arrest of a defendant who does not appear is not to be issued[18] in any proceedings on application for a liability order[19]. However, the court may proceed to hear the complaint in the absence of the defendant upon proof that the summons was served on him in a reasonable time before the hearing[20].

1 Ie under the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, Pt II (regs 3–9) (as amended) (see paras 176–191 ante): see reg 10(2) (as amended: see note 4 infra). As to billing authorities see para 5 ante.

2 References in ibid Pt III (regs 10–23) (as amended) to a sum which has become payable and which has not been paid include references to a sum forming part of a larger sum which has become payable and the other part of which has been paid: reg 10(3).

3 For the purposes of ibid Pt III (as amended), 'liability order' means an order under reg 12 (as amended) (see the text and notes 11–19 infra): reg 10(1).

In relation to enforcement and recovery of a sum with respect to joint owners and occupiers, Pt III (as amended) applies with certain modifications: see the Non-Domestic Rating (Collection and Enforcement) (Miscellaneous Provisions) Regulations 1990, SI 1990/145, reg 4(1). As to the circumstances in which reg 4 (as amended) applies, see reg 3(1), (2), in accordance with which the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, Pt II (as amended) (see paras 176–191 ante) is applied with modifications: see the Non-Domestic Rating (Collection and Enforcement) (Miscellaneous Provisions) Regulations 1990, SI 1990/145, reg 3(3). Provision is made, inter alia, for joint and several liability in the event of there being more than one occupier of a hereditament or part of a hereditament shown in a non-domestic rating list, or more than one owner of the whole of such a hereditament (see reg 3(1), (2)); and for the manner in which notice is to be given in accordance with the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, Pt II (as amended) to those occupiers or owners (see the Non-Domestic Rating (Collection and Enforcement) (Miscellaneous Provisions) Regulations 1990, SI 1990/145, reg 3(3)–(6) (reg 3(5) amended by SI 1993/616)).

Provision is also made in respect of joint owners or occupiers being a charity or trustees for a charity (see the Non-Domestic Rating (Collection and Enforcement) (Miscellaneous Provisions) Regulations 1990, SI 1990/145, reg 3(7)); and for the procedure in the event of the need for repayment of any sum under the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, Pt II (as amended) (see the Non-Domestic Rating (Collection and Enforcement) (Miscellaneous Provisions) Regulations 1990, SI 1990/145, reg 3(8), (9) (reg 3(8) amended by SI 1993/616)).

As to enforcement and procedure in relation to partnerships, and the application of the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, Pts II and III (both as amended) in that context, see the Non-Domestic Rating (Collection and Enforcement) (Miscellaneous Provisions) Regulations 1990, SI 1990/145, reg 5.

4 Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 10(2) (amended by SI 1993/616). Recovery as mentioned in the text must be in accordance with the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, regs 11–21 (as amended) (see the text and notes 5–19 infra; and para 194 et seq post): see reg 10(2) (as so amended). Nothing in reg 10(2) (as amended) indicates that proceedings in a court of competent

jurisdiction had to be confined to liability in respect of a single chargeable year: *Tower Hamlets London Borough Council v Merrick* [2001] EWHC Admin 799, [2001] RVR 305, [2001] All ER (D) 225 (Oct).

5 The reminder notice is in addition to any notice required to be served under the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, Pt II (as amended) (see paras 176–191 ante): see reg 11(1) (as amended: see note 6 infra). As to service see para 178 ante.

6 Ibid reg 11(1) (amended by SI 1993/616). This provision is subject to the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 11(3) (see the text and notes 8–10 infra): see reg 11(1) (as so amended).

7 Ibid reg 11(2).

8 Ie served with a further notice under ibid reg 8(1) (as amended) (see para 191 ante): see reg 11(3).

9 Ie such a subsequent failure to pay as is mentioned in ibid reg 8(2)(a) (see para 191 ante): see reg 11(3).

10 Ibid reg 11(3).

11 Ie under ibid reg 8(2) in consequence of such a failure as is mentioned in reg 8(2)(a) (see para 191 ante): see reg 12(1) (as amended: see note 13 infra).

12 Ie in a case where a reminder notice is required under ibid reg 11 (as amended) (see the text and notes 5–10 supra): see reg 12(1) (as amended: see note 13 infra).

13 Ibid reg 12(1) (amended by SI 1993/616). The Magistrates' Courts Act 1980 s 127(1) (limitation of time) (see MAGISTRATES vol 29(2) (Reissue) para 589) does not apply to such an application; but no application may be instituted in respect of a sum after the period of six years beginning with the day on which it became due under the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, Pt II (as amended) (see paras 176–191 ante): reg 12(3).

14 See para 201 post.

15 A summons issued under the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 12(2) may be served on a person:

(1) by delivering it to him (reg 13(2)(a));
(2) by leaving it at his usual or last-known place of abode, or in the case of a company, at its registered office (reg 13(2)(b));
(3) by sending it by post to him at his usual or last-known place of abode, or in the case of a company, to its registered office (reg 13(2)(c));
(4) where all or part of the sum to which it relates is payable with respect to a hereditament which is a place of business of the person, by leaving it at, or by sending it by post to him at, the place of business (reg 13(2)(d)); or
(5) by leaving it at, or by sending it by post to him at, an address given by the person as an address at which service of the summons will be accepted (reg 13(2)(e)).

As to the registered office of a company see COMPANIES vol 7(1) (2004 Reissue) para 346. In *R (on the application of Pilot Foods Ltd) v Horseferry Road Magistrates' Court* [2003] EWHC 1447 (Admin), [2003] RVR 268, [2003] All ER (D) 286 (Jun), liability orders were quashed in circumstances where the summonses had been served at premises which the claimant had licensed to others (rather than at the claimant's registered office) thereby denying him the opportunity of appearing and opposing the making of the orders, in particular by putting evidence before the justices that he had not been in occupation at the relevant time.

16 Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 12(2). The officers of the billing authority may be authorised to appear on behalf of the authority before the magistrates: see the Local Government Act 1972 s 233 (service of notices to local authorities); and LOCAL GOVERNMENT vol 29(1) (Reissue) para 443. It has been held unfair to refuse a defendant in analogous (community charge) proceedings the assistance of a friend at the hearing: *R v Leicester City Justices, ex p Barrow* [1991] 2 QB 260, [1991] RA 205, CA.

17 Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 13(2A) (added by SI 1998/3089).

18 Ie under the Magistrates' Courts Act 1980 s 55(2) (see MAGISTRATES vol 29(2) (Reissue) para 693): see the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 12(4).

19 Ibid reg 12(4). The text refers to any proceedings under reg 12: see reg 12(4). As to warrants that may be issued in certain circumstances following the making of a liability order see para 197 post.

20 See the Magistrates' Courts Act 1980 s 55(1), (3); and MAGISTRATES vol 29(2) (Reissue) para 693.

194. Liability orders. A magistrates' court must make a liability order[1] if it is satisfied that the sum has become payable by the defendant and has not been paid[2]. Such an order[3] must be made in respect of an amount equal to the aggregate of the sum payable and a sum of an amount equal to the costs reasonably incurred by the applicant in obtaining the order[4]. Where the sum payable is paid after a liability order has been

applied for[5] but before it is made, the court is nonetheless (if so requested by the billing authority) to make the order in respect of a sum of an amount equal to the costs reasonably incurred by the authority in making the application[6].

A single liability order may deal with one person and one amount (or aggregate amount)[7], or, if the court thinks fit, may deal with more than one person and more than one such amount (or aggregate amount)[8].

The amount in respect of which a liability order is made is enforceable only in accordance with non-domestic rating regulations[9].

When considering whether to make the liability order, the magistrates can decide whether the conditions of liability[10] have been fulfilled in respect of the defendant and the relevant hereditament[11]; they can also decide whether a hereditament falls within a category exempted wholly or partly from rateability[12]. They cannot, however, consider within their jurisdiction whether an amendment to the local list was validly made[13], or whether or not to issue a warrant in the light of poverty or hardship of the defendant[14].

1 For the meaning of 'liability order' see para 193 note 3 ante. As to applications made to a magistrates' court for a liability order see para 193 ante.

2 Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 12(5). As to references to sums payable and not paid see para 193 note 2 ante.

The burden of proof (in proceeding for distress, as to which see para 195 post) as to whether the rates have been paid has been held to lie with the authority: *Tower Hamlets London Borough Council v Fallows and Fallows* [1990] RA 255, CA. There is authority (in relation to previous legislation) for magistrates to refuse to enforce the collection of rates where the rate has been satisfied without actual payment of the rate in question: see *R v Parker* (1857) 7 E & B 155; distinguished in *R v Kingston Justices and Phillips* (1858) EB & E 256. See also *Shillito v Hinchcliffe* [1922] 2 KB 236 at 248 per Shearman J. These were cases where the defendant had overpaid money in respect of a previous rate reduced on appeal, or where the authority had acted 'in flagrant violation of good faith' in taking the action. See also *London and North Western Rly Co v Bedford* (1852) 17 QB 978.

As to examples where the subject of a liability order sought judicial review of the order see *R (on the application of Lampkin) v Horseferry Road Magistrates' Court* [2005] EWHC 312 (Admin), [2005] RA 233 (in the event, the application was too late after the grounds had been established and the case lacked sufficient merit to extend the limit); and *R (on the application of Pilot Foods Ltd) v Horseferry Road Magistrates' Court* [2003] EWHC 1447 (Admin), [2003] RVR 268, [2003] All ER (D) 286 (Jun) (cited in para 193 note 15 ante). In *Liverpool City Council v Pleroma Distribution Ltd* [2002] EWHC 2467 (Admin), [2003] RA 34, (2002) Times, 2 December, justices were found not to have exceeded their jurisdiction or to have acted unlawfully when they reopened a case so as to set aside a liability order made in ignorance of a request for an adjournment.

3 Ie an order made pursuant to the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 12(5) (see the text and notes 1–2 supra): see reg 12(6) (as amended: see note 4 infra).

4 Ibid reg 12(6) (amended by SI 1990/145).

5 Ie under the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 12(2) (see para 193 ante): see reg 12(7) (as added and amended: see note 6 infra).

6 Ibid reg 12(7) (added by SI 1990/145; amended by SI 1993/616). As to billing authorities see para 5 ante.

7 Ie such amount as is mentioned in the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 12(6) (as amended) (see the text and notes 3–4 supra) or reg 12(7) (as added and amended) (see the text and notes 5–6 supra): see reg 13(1) (as amended: see note 8 infra).

8 Ibid reg 13(1) (amended by SI 1990/145; and in relation to Wales by SI 2003/1714; in relation to England by SI 2003/2210).

9 Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 13(3). The text refers to enforceability in accordance with Pt II (regs 3–9) (as amended) (see paras 176–191 ante); and, accordingly for the purposes of any of the provisions of the Magistrates' Courts Act 1980 Pt III (ss 75–96A) (as amended) (satisfaction and enforcement) (see MAGISTRATES vol 29(2) (Reissue) para 852 et seq), the amount in respect of which a liability order is made is not to be treated as a sum adjudged to be paid by order of the court: see the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 13(3).

As from a day to be appointed under the Tribunals, Courts and Enforcement Act 2007 s 148(5), where a liability order has been made against a person under regulations made under the Local Government Finance Act 1988 s 62, Sch 9 (as amended; prospectively further amended) (see para 170 ante), the billing authority may use the procedure in the Tribunals, Courts and Enforcement Act 2007

s 62(1), Sch 12 (taking control of goods) to recover the amount in respect of which the order was made, to the extent that it remains unpaid: see the Local Government Finance Act 1988 s 62A (prospectively added by the Tribunals, Courts and Enforcement Act 2007 s 62(3), Sch 13 paras 87, 88). However, at the date at which this volume states the law, no such day had been appointed.

10 Ie the conditions under the Local Government Finance Act 1988 s 43 (as amended) (see paras 60, 70 et seq ante) or s 45 (as amended) (see paras 62–63, 78–79 ante).

11 For the meaning of 'hereditament' see para 33 et seq ante.

12 See *Evans v Brook* [1959] 2 All ER 399, 4 RRC 392. As to exemptions from non-domestic rating see para 37 et seq ante.

13 See *County and Nimbus Estates Ltd v Ealing London Borough Council* (1978) 76 LGR 624, [1979] RA 63; *R v Thames Magistrates Court, ex p Christie* [1979] RA 231; *Pebmarsh Grain Ltd v Braintree District Council* [1980] RA 136; *Hackney London Borough Council v Mott and Fairman* [1994] RA 381.

14 See *R v Handsley* (1881) 7 QBD 398; *Hackney London Borough Council v Izdebski* [1988] RVR 144.

195. Distress. Where a liability order[1] has been made, the authority which applied for the order may levy the appropriate amount[2] by distress and sale of the goods of the debtor[3] against whom the order was made[4]. However, no person making a distress may seize any such clothing, bedding, furniture, household equipment and provisions of the debtor as are necessary for satisfying the basic domestic needs of him and his family[5].

If, before any goods are seized, the appropriate amount (including charges arising up to the time of the payment or tender) is paid or tendered to the authority, the authority must accept the amount and the levy must not be proceeded with[6]. Where an authority has seized goods of the debtor in pursuance of the distress, but before sale of those goods the appropriate amount (including charges arising up to the time of the payment or tender) is paid or tendered to the authority, the authority must accept the amount, the sale must not proceed and the goods must be made available for collection by the debtor[7].

The person levying distress on behalf of an authority must carry with him the written authorisation of the authority, which he must show to the debtor if so requested[8].

A distress is not to be deemed unlawful on account of any defect or want of form in the liability order, and no person making a distress is to be deemed a trespasser on that account; and no person making a distress is to be deemed a trespasser from the beginning on account of any subsequent irregularity in making the distress, but a person sustaining special damage by reason of the subsequent irregularity may recover full satisfaction for the special damage (and no more) by proceedings in trespass or otherwise[9]. A distress may be made anywhere in England and Wales[10].

1 For the meaning of 'liability order' see para 193 note 3 ante. As to liability orders see paras 193–194 ante.

2 The appropriate amount for the purposes of the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 14(1) is the aggregate of:

(1) an amount equal to any outstanding sum which is or forms part of the amount in respect of which the liability order was made (reg 14(2)(a)); and

(2) a sum determined in accordance with reg 14(2)(b), Sch 3 (Sch 3 substituted by SI 1993/774; amended by SI 1998/3089; and in relation to Wales by SI 2004/1013; in relation to England by SI 2003/2210; SI 2006/3395; SI 2007/501) in respect of charges connected with the distress (Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 14(2)(b)).

As to references to sums payable and not paid see para 193 note 2 ante.

3 In ibid Pt III (regs 10–23) (as amended) 'debtor' means a person against whom a liability order has been made: reg 10(1).

4 Ibid reg 14(1). No distress under reg 14 may be made other than by a person who is authorised to act as a bailiff by a general certificate granted under the Law of Distress Amendment Act 1888 s 7 (as amended) (see DISTRESS vol 13 (2007 Reissue) para 994): Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 14(6A) (added by SI 1998/3089).

Since the levying of distress is limited to the 'appropriate amount', excessive distress constitutes wrongful interference with goods under the Torts (Interference with Goods) Act 1977: see *Steel Linings Ltd v Bibby & Co (a firm)* [1993] RA 27, [1993] NLJR 511, CA; *Quinlan v Hammersmith and*

Fulham London Borough Council [1989] RA 43, 153 JP 180, CA (no excessive or illegal distress; distress on a public highway is lawful); *Evans v South Ribble Borough Council* [1992] QB 757, [1991] RA 191 (no effective distress where no entry to debtor's premises).

In *Re ELS Ltd* [1995] Ch 11, [1994] 2 All ER 833, company property, made subject to a floating charge which had crystallised by the appointment of administrative receivers, was held to be no longer 'goods' for the purposes of the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 14(1).

5 Ibid reg 14(1A) (added by SI 1993/774). This provision is without prejudice to the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 14(8) (see note 10 infra): see reg 14(1A) (as so added).

6 Ibid reg 14(3). A debtor is not entitled to halt the distraint process by payment or tender at any time but only in accordance with the opportunities provided for under reg 14(3) and reg 14(4) (see the text and note 7 infra): *Wilson v South Kesteven District Council* [2000] 4 All ER 577, [2001] 1 WLR 387, CA.

7 Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 14(4). See note 6 supra.

8 Ibid reg 14(5). The person levying distress on behalf of an authority is to hand to the debtor or leave at the premises where the distress is levied a copy of reg 14 (as amended) and Sch 3 (as substituted and amended) (see note 2 supra) and a memorandum setting out the appropriate amount, and is to hand to the debtor a copy of any close or walking possession agreement entered into: reg 14(5). As to the memorandum required under reg 14(5) see *Wilson v South Kesteven District Council* [2000] 4 All ER 577, [2001] 1 WLR 387, CA.

9 Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 14(7). A failure to provide the documents required under reg 14(5) (see the text and note 8 supra) would clearly constitute a 'subsequent irregularity' within the meaning of reg 14(7), and would thus entitle the debtor to recover any special damage proved to have resulted from it, but the distraint process itself is not rendered unlawful by such an irregularity: *Wilson v South Kesteven District Council* [2000] 4 All ER 577, [2001] 1 WLR 387, CA.

10 Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 14(6). The provisions of reg 14 (as amended) are not to affect the operation of any enactment which protects goods of any class from distress: reg 14(8). For the meanings of 'England' and 'Wales' see para 1 note 2 ante.

Permission of the court is usually required for the taking of proceedings in execution of a judgment against a national serviceman or certain reservists or auxiliaries, including distress for rates: see the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951 s 6(2); and ARMED FORCES vol 2(2) (Reissue) para 85.

196. Appeal against distress. A person aggrieved by the levy of, or an attempt to levy, a distress may appeal to a magistrates' court[1]. The appeal must be instituted by making complaint to a justice of the peace[2], and requesting the issue of a summons directed to the authority which levied or attempted to levy the distress to appear before the court to answer to the matter by which he is aggrieved[3].

If the court is satisfied that a levy was irregular, it may order the goods distrained to be discharged if they are in the possession of the authority; and it may by order award compensation in respect of any goods distrained and sold, of an amount equal to the amount which, in the opinion of the court, would be awarded by way of special damages in respect of the goods if proceedings were brought in trespass or otherwise in connection with the irregularity[4].

If the court is satisfied that an attempted levy was irregular, it may by order require the authority to desist from levying in the manner giving rise to the irregularity[5].

1 Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 15(1). As to distress see para 195 ante. As to persons aggrieved see ADMINISTRATIVE LAW vol 1(1) (2001 Reissue) para 66.

2 See para 201 post.

3 Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 15(2).

4 Ibid reg 15(3). The proceedings referred to in the text under which special damages are available in respect of goods are those that could be brought under reg 14(7) (see para 195 ante): see reg 15(3). It was held in *R v Basildon Justices, ex p Holding & Barnes plc* [1994] RA 157, (1994) 158 JP 980, that magistrates were under no duty to hear a complaint under the Non-Domestic Rating (Collection and Enforcement)

(Local Lists) Regulations 1989, SI 1989/1058, reg 15 if there are legal and factual difficulties. In *R v Epping Magistrates, ex p Howard and Leach* [1997] RA 258, it was held that if the goods seized by irregular distress are still in the authority's possession, the court may not award compensation, but may merely order their release.

5 Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 15(4). As to admissibility of evidence in appeals in connection with distress proceedings see para 201 post.

197. Commitment to prison. Where a billing authority[1] has sought to levy an amount by distress[2], the debtor[3] is an individual, and the person making the distress reports to the authority that he was unable (for whatever reason) to find any or sufficient goods of the debtor on which to levy the amount, the authority may apply to a magistrates' court for the issue of a warrant committing the debtor to prison[4].

On such application being made, the court must (in the debtor's presence) inquire as to his means and inquire whether the failure to pay which led to the liability order[5] concerned being made against him was due to his wilful refusal or culpable neglect[6].

If (and only if) the court is of the opinion that his failure was due to his wilful refusal or culpable neglect it may if it thinks fit[7]: (1) issue a warrant of commitment against the debtor[8]; or (2) fix a term of imprisonment and postpone the issue of the warrant until such time and on such conditions (if any) as the court thinks just[9].

Where an application for the issue of such a warrant has been made[10], and after the making of the requisite inquiries[11] no warrant is issued or term of imprisonment fixed, the court may remit all or part of the appropriate amount to which the application relates[12]. Where an application for the issue of such a warrant has been made[13], but no warrant is issued or term of imprisonment fixed, the application may be renewed[14].

The warrant must be made in respect of the relevant amount[15]. The warrant: (a) must state the relevant amount[16]; (b) may be directed to the authority making the application and to such other persons (if any) as the court issuing it thinks fit[17]; and (c) may be executed anywhere in England and Wales by any person to whom it is directed[18].

If, before a warrant has been issued, or a term of imprisonment fixed and the issue of a warrant postponed, an amount[19] is paid or tendered to the authority[20], or if, after a term of imprisonment has been fixed and the issue of a warrant postponed, any amount the court has ordered the debtor to pay is paid or tendered to the authority[21], or if, after a warrant has been issued, the amount stated in it is paid or tendered to the authority[22], the authority must accept the amount concerned, no further steps may be taken as regards its recovery, and the debtor, if committed to prison, must be released[23].

The order in the warrant is that the debtor be imprisoned for a time specified in the warrant which is not to exceed three months, unless the amount stated in the warrant is sooner paid[24].

A statement in writing to the effect that wages of any amount have been paid to the debtor during any period, purporting to be signed by or on behalf of his employer, is evidence of the facts there stated[25].

1 As to billing authorities see para 5 ante.

2 Ie under the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 14 (as amended) (see para 195 ante): see reg 16(1) (as amended: see note 4 infra).

3 For the meaning of 'debtor' see para 195 note 3 ante.

4 Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 16(1) (amended by SI 1992/474; SI 1993/616). A single warrant may not be issued under the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 16 (as amended) against more than one person: reg 17(1) (amended in relation to Wales by SI 2003/1714; in relation to England by SI 2003/2210).

The Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, regs 16–17 (as amended) have effect subject to the Criminal Justice Act 1982 Pt I (ss 1–11) (largely repealed) (treatment of young offenders) (see now the Powers of Criminal Courts (Sentencing)

Act 2000; and see CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(4) (2006 Reissue) para 1596 et seq): Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 17(7). See also *R v Newcastle Justices, ex p Ashley* [1993] RA 264.

5 For the meaning of 'liability order' see para 193 note 3 ante. As to liability orders see paras 193–194 ante.

6 Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 16(2). For the purpose of enabling inquiry to be made as to the debtor's conduct and means under reg 16(2), a justice of the peace (as to which see para 201 post) may:

(1) issue a summons to him to appear before a magistrates' court and (if he does not obey the summons) issue a warrant for his arrest (reg 17(5)(a)); or

(2) issue a warrant for the debtor's arrest without issuing a summons (reg 17(5)(b)).

A warrant issued under reg 17(5) may be executed anywhere in England and Wales by any person to whom it is directed or by any constable acting within his police area; and the Magistrates' Courts Act 1980 s 125(3) (repealed) (execution of warrants) (see now s 125A (as added and amended) et seq; and MAGISTRATES vol 29(2) (Reissue) para 861) applies to such a warrant: Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 17(6). For the meanings of 'England' and 'Wales' see para 1 note 2 ante. As to police areas see POLICE vol 36(1) (2007 Reissue) para 136 et seq.

In *R v Birmingham Justices, ex p Turner* (1971) 17 RRC 12, 219 Estates Gazette 585, DC, commitment was quashed due to insufficiency of inquiry. This was followed in *R v Liverpool City Justices, ex p Lauckriet* (1977) 75 LGR 605, [1977] RA 85. See also *R v Poole Justices, ex p Fleet* [1983] 2 All ER 897, [1983] 1 WLR 974; *R v Richmond Justices, ex p Atkins* [1983] RVR 148 (magistrates wrongly assuming that defendant could borrow further from bank); *R v Birmingham Magistrates' Court, ex p Mansell* [1988] RVR 112, (1988) 152 JP 570 (no account taken of ratepayer's offer to meet debt from capital assets); *R v Liverpool Justices, ex p Greaves* [1979] RA 119 (no proper inquiry as to means); *R v Felixstowe, Ipswich and Woodbridge Magistrates' Court, ex p Herridge* [1993] RA 83, 158 JP 307 (not necessary for magistrates to inquire in every case whether there is an alternative procedure to enforce the debt). See also *R (on the application of Lee) v Bournemouth Magistrates' Court* [2002] All ER (D) 378 (Mar) (claimant's committal quashed because authority had failed to discharge the burden of proof on it to establish that claimant had culpably neglected to pay and the justices had failed to state why they had rejected the claimant's evidence that he did not have the means to pay and that any offers to pay that he had made were conditional on funds becoming available).

Committal proceedings are a 'legal process' within the meaning of the Insolvency Act 1986 s 285(1) (restriction on proceedings and remedies) (see BANKRUPTCY AND INDIVIDUAL INSOLVENCY vol 3(2) (2002 Reissue) para 218); therefore the magistrates had the power to stay such proceedings against a bankrupt: see *Smith (a bankrupt) v Braintree District Council* [1990] 2 AC 215, [1990] RA 1, HL (followed in *Lewis v Ogwr Borough Council* [1996] RA 124). Unlawful commitment to prison may result in damages being awarded to the debtor: see *R v Manchester City Magistrates' Court, ex p Davies* [1989] QB 631, [1989] 1 All ER 90; see also *R v Wolverhampton Magsistrates' Court, ex p Mould* [1992] RA 309, 157 JP 1017; *R v Middleton Justices, ex p Tilley* [1995] RVR 101. As to cases where magistrates who jailed unrepresented defaulters for failure to pay local rates or court-imposed fines were found to have acted beyond their powers and in breach of provisions of the Convention for the Protection of Human Rights and Fundamental Freedoms (1950) arts 5, 6 (as to which see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) para 127 et seq) see *Lloyd v United Kingdom* [2006] RA 329, [2006] RA 384, (2005) Times, 10 March, ECtHR.

7 Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 16(3). As to the exercise of discretion in such a case see *R v Oundle and Thrapston Justices and Delaney, ex p East Northamptonshire District Council* [1980] RA 232; *R v Thanet District Council, ex p Haddow* [1992] RA 245, sub nom *R v Ramsgate Magistrates' Court and Thanet District Council* (1993) 157 JP 545, CA; *R v Northampton Magistrates' Court, ex p Newell* [1992] RA 283, CA; *R v Felixstowe, Ipswich and Woodbridge Magistrates' Court, ex p Herridge* [1993] RA 83, 158 JP 307 (effect of change in debtor's circumstances); *Stevenson v Southwark London Borough Council* [1993] RA 113 (failure by magistrate to recognise existence of discretion); *R v Cannock Justices, ex p Ireland* [1996] RA 463, CA; *R v Stoke-on-Trent Justices, ex p Booth* [1997] RA 263, (1996) Independent, 9 February (costs against magistrate). It was held in *R v Ealing Magistrates' Court, ex p Coatsworth* [1980] RA 97, 78 LGR 439, that the magistrates could hear evidence in committal proceedings as to who was the rateable occupier of the relevant hereditament.

As to admissibility of evidence in commitment to prison proceedings see para 201 post.

8 Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 16(3)(a).

9 Ibid reg 16(3)(b).

10 Ie under ibid reg 16 (as amended) (see the text and notes 1–4 supra): see reg 17(2).

11 Ie those mentioned in ibid reg 16(2) (see the text and notes 5–6 supra): see reg 17(2).

12 Ibid reg 17(2). The appropriate amount that the court may remit is that mentioned in reg 14(2) (see para 195 ante): see reg 17(2).

13 Ie under ibid reg 16 (as amended) (see the text and notes 1–4 supra): see reg 17(3).
14 Ibid reg 17(3). This provision applies except so far as regards any sum remitted under reg 17(2) (see the text and notes 10–12 supra) on the ground that the circumstances of the debtor have changed: see reg 17(3).
15 Ibid reg 16(4). The relevant amount for this purpose is the aggregate of:
(1) the appropriate amount mentioned in reg 14(2) (see para 195 ante), or (as the case may be) so much of it as remains outstanding (reg 16(4)(a)); and
(2) a sum of an amount equal to the costs reasonably incurred by the applicant in respect of the application (reg 16(4)(b)).
16 Ibid reg 16(5)(a). The relevant amount to be stated is that mentioned in reg 16(4) (see note 15 supra): see reg 16(5)(a).
17 Ibid reg 16(5)(b).
18 Ibid reg 16(5)(c).
19 Ie determined in accordance with ibid reg 16(6A) (as added): see reg 16(6) (as substituted: see note 20 infra). The amount referred to in the text is the aggregate of the appropriate amount mentioned in reg 14(2) (see para 195 ante) (or so much of it as remains outstanding) and the authority's reasonable costs incurred up to the time of payment or tender in making one or more of the applications referred to in Sch 4 (added by SI 1998/3089; amended in relation to England only by SI 2006/3395): Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 16(6A) (reg 16(6A), (6B) added by SI 1998/3089). For these purposes, the authority's reasonable costs in respect of any application must not exceed the amount specified in the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, Sch 4 (as added and amended): reg 16(6B) (as so added).
20 Ibid reg 16(6)(a) (reg 16(6) substituted by SI 1998/3089).
21 Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 16(6)(b) (as substituted: see note 20 supra).
22 Ibid reg 16(6)(c) (as substituted: see note 20 supra).
23 Ibid reg 16(6) (as substituted: see note 20 supra).
24 Ibid reg 16(7). However:
(1) where a warrant is issued after a postponement under reg 16(3)(b) (see head (2) in the text) and, since the term of imprisonment was fixed but before the issue of the warrant, the amount mentioned in reg 16(4)(a) (see note 15 head (1) supra) with respect to which the warrant would (but for the postponement) have been made has been reduced by a part payment, the period of imprisonment ordered under the warrant must be the term fixed under reg 16(3) (see the text and notes 7–9 supra) reduced by such number of days as bears to the total number of days in that term less one day the same proportion as the part paid bears to that amount (reg 16(7)(a)); and
(2) where, after the issue of a warrant, a part payment of the amount stated in it is made, the period of imprisonment is to be reduced by such number of days as bears to the total number of days in the term of imprisonment specified in the warrant less one day the same proportion as the part paid bears to the amount so stated (reg 16(7)(b)).

In calculating a reduction required under reg 16(7), any fraction of a day is to be left out of account; and the Magistrates' Courts Rules 1981, SI 1981/552, r 55(1)–(3) (as amended) (payment after imprisonment imposed) (see MAGISTRATES vol 29(2) (Reissue) para 852 et seq) applies (so far as is relevant) to a part payment as if the imprisonment concerned were imposed for want of sufficient distress to satisfy a sum adjudged to be paid by a magistrates' court: Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 16(8). The court cannot impose two consecutive periods of three months' imprisonment in one warrant of commitment, despite it relating to two separate sums: see *R v Bexley Justices, ex p Henry* (1971) 17 RRC 15. The principle of proportionality is relevant to fixing a term of imprisonment under the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 16 (as amended): see *R v Highbury Corner Magistrates' Court, ex p Uchendu* [1994] RA 51, 158 LGR 481.
25 Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 17(4). The text refers to evidence in any proceedings under reg 16 (as amended) (see the text and notes 1–24 supra): see reg 17(4).

198. Amount due under liability order deemed to be a debt for certain proceedings. Where a liability order[1] has been made and the debtor[2] against whom it was made is an individual, the amount due is deemed to be a debt for the purposes of a creditor's petition[3]. Where a liability order has been made and the debtor against whom it was made is a company, the amount due is deemed to be a debt for the purposes of winding up proceedings[4].

The amount due for these purposes[5] is an amount equal to any outstanding sum which is or forms part of the amount in respect of which the liability order was made[6].

1 For the meaning of 'liability order' see para 193 note 3 ante. As to liability orders see paras 193–194 ante.
2 For the meaning of 'debtor' see para 195 note 3 ante.
3 Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 18(1). The amount due is deemed to be a debt as mentioned in the text for the purposes of the Insolvency Act 1986 s 267 (prospectively amended) (grounds of creditor's petition) (see BANKRUPTCY AND INDIVIDUAL INSOLVENCY vol 3(2) (2002 Reissue) para 126): see the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 18(1).
4 Ibid reg 18(2) (amended by SI 1990/145). The amount due is deemed to be a debt as mentioned in the text for the purposes of the Insolvency Act 1986 s 122(1)(f) (winding up of companies by the court) (see COMPANY AND PARTNERSHIP INSOLVENCY vol 7(3) (2004 Reissue) para 444) or, as the case may be, s 221(5)(b) (winding up of unregistered companies) (see COMPANY AND PARTNERSHIP INSOLVENCY vol 7(4) (2004 Reissue) para 1151): see the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 18(2) (as so amended).
5 Ie for the purposes of ibid reg 18 (as amended): see reg 18(3).
6 Ibid reg 18(3).

199. Relationship between remedies. Where a warrant of commitment is issued against (or a term of imprisonment is fixed in the case of) a person[1], no steps (or no further steps) may be taken pursuant to the enforcement provisions[2] by way of distress or bankruptcy in relation to the relevant amount[3].

Steps by way of distress, commitment, bankruptcy or winding up[4] may not be taken against a person under a liability order[5] while steps by way of another of those methods are being taken against him under it[6].

Where a step is taken by way of distress for the recovery of an outstanding sum which is or forms part of an amount in respect of which a liability order has been made, any sum recovered thereby which is less than the aggregate of the amount outstanding and any charges connected with distress[7] are to be treated as discharging first the charges, the balance (if any) being applied towards the discharge of the outstanding sum[8].

1 Ie under the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 16(3) (see para 197 ante): see reg 19(1).
2 Ie under ibid Pt III (regs 10–23) (as amended) (see paras 193 et seq ante, 200 et seq post): see reg 19(1).
3 Ibid reg 19(1). The text refers to steps taken in relation to the relevant amount as mentioned in reg 16(4) (see para 197 ante): see reg 19(1). As to distress in this context see paras 195–196 ante; and as to bankruptcy in relation to the relevant amount see para 198 ante.
4 Ie under ibid Pt III (as amended) (see paras 193 et seq ante, 200 et seq post): see reg 19(2).
5 For the meaning of 'liability order' see para 193 note 3 ante. As to liability orders see paras 193–194 ante.
6 Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 19(2). Subject to reg 19(1) (see the text and notes 1–3 supra) and reg 19(2), distress may be resorted to more than once: reg 19(3).
7 Ie any charges arising under ibid reg 14(2)(b), Sch 3 (Sch 3 substituted by SI 1993/774; amended by SI 1998/3089; and in relation to Wales by SI 2004/1013; in relation to England by SI 2003/2210; SI 2006/3395; SI 2007/501) (see para 195 ante): see the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 19(4).
8 Ibid reg 19(4).

200. Recovery other than by distress. A sum which has become payable to a billing authority[1], which has not been paid, and in respect of which a liability order[2] has not been made may (as an alternative to recovery under a liability order) be recovered in a court of competent jurisdiction[3].

Recovery of sums due in respect of non-domestic rates by this method is subject to a limitation period of six years[4].

1 Ie under the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, Pt II (regs 3–9) (as amended) (see para 176 et seq ante): see reg 20(1) (as amended: see note 3 infra). As to billing authorities see para 5 ante.

2 For the meaning of 'liability order' see para 193 note 3 ante. As to liability orders see paras 193–194 ante.

3 Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 20(1) (amended by SI 1993/616). A liability order may not be made in respect of any amount in relation to which proceedings have been instituted under the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 20(1) (as so amended): reg 20(2). A sum which has become payable (by way of repayment) under Pt II (as amended) (see para 176 et seq ante) to a person other than a billing authority but which has not been paid is recoverable in a court of competent jurisdiction: reg 22 (amended by SI 1993/616).

4 See the Limitation Act 1980 s 9(1) (sums recoverable by statute); and LIMITATION OF ACTIONS vol 28 (Reissue) para 911.

201. Proceedings in magistrates' courts. Subject to any other enactment authorising a District Judge (magistrates' courts) or other person to act by himself, a magistrates' court may not[1] hear a summons, entertain an application for a warrant or hold an inquiry as to means on such an application except when composed of at least two justices[2].

In any proceedings under the statutory provisions relating to the application for a liability order[3], or to appeals in connection with distress[4] or commitment to prison[5], a statement[6] contained in a document constituting or forming part of a record compiled by the applicant authority or an authorised person[7] is admissible as evidence of any fact stated in it of which direct oral evidence would be admissible[8].

1 Ie under the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, Pt III (regs 10–23) (as amended) (see paras 193 et seq ante, 203 et seq post): see reg 21(2) (as amended: see note 2 infra).

2 Ibid reg 21(2) (amended in relation to England by SI 2000/2026; in relation to Wales by SI 2001/1076).

References to a justice of the peace in the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 12(2) (see para 193 ante) and reg 15(2) (see para 196 ante) are to be construed subject to the Justices' Clerks Rules 2005, SI 2005/545, r 3 (as amended) (which authorises certain matters authorised to be done by a justice of the peace to be done by a justices' clerk) (see MAGISTRATES vol 29(2) (Reissue) para 638): Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 21(3).

3 Ie under ibid reg 12 (as amended) (see para 193 ante): see reg 21(4) (as added and amended: see note 8 infra).

4 Ie under ibid reg 15 (see para 196 ante): see reg 21(4) (as added and amended: see note 8 infra).

5 Ie under ibid reg 16 (as amended) (see para 197 ante): see reg 21(4) (as added and amended: see note 8 infra).

6 For these purposes, 'statement' includes any representation of fact, whether made in words or otherwise; and the reference to an application under ibid reg 16 (as amended) (see para 197 ante) includes a reference to an application made in the circumstances mentioned in reg 17(3) (see para 197 ante): reg 21(6) (added by SI 1992/474).

7 For these purposes, 'authorised person' means any person authorised by a billing authority to exercise any functions relating to the collection and enforcement of non-domestic rates: Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 21(7) (added by SI 1996/1880). As to billing authorities see para 5 ante.

8 Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 21(4) (added by SI 1992/474; amended by SI 1996/1880). In proceedings where the applicant authority or an authorised person desires to give a statement in evidence in accordance with the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 21(4) (as added and amended), and the document containing that statement is produced by a computer, a certificate (reg 21(5) (added by SI 1992/474; amended by SI 1996/1880)):

(1) identifying the document containing the statement and the computer by which it was produced (Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 21(5)(a) (reg 21(5)(a)–(d) added by SI 1992/474));

(2) containing a statement that at all material times the computer was operating properly, or if not, that any respect in which it was not operating properly or was out of operation was not such as to affect the production of the document or the accuracy of its contents (reg 21(5)(b) (as so added));

(3) giving such explanation as may be appropriate of the content of the document (reg 21(5)(c) (as so added)); and

(4) purporting to be signed by a person occupying a responsible position in relation to the operation of the computer (reg 21(5)(d) (as so added)),

is admissible as evidence of anything which is stated in it to the best of the signatory's information and belief (reg 21(5) (as so added and amended)).

202. Payment under a mistake. A payment of rates under a mistake of fact may be recovered at common law[1].

Historically, money paid for rates under a mistake of law was not recoverable at common law[2] but it now seems that money paid by a subject to a public authority in the form of taxes or other levies paid pursuant to an ultra vires demand by the authority is prima facie recoverable by the subject as of right[3] and it has been established as a principle in the law of restitution that monies paid under mistake of law are normally recoverable in restitution[4].

1 *Meadows v Grand Juntion Waterworks Co* (1905) 69 JP 255. See also *Burland v Hull Local Board of Health* (1862) 3 B & S 271; *North Western Gas Board v Manchester Corpn* (1963) 61 LGR 241, [1963] RA 35 (revsd [1963] 3 All ER 442, [1963] RVR 552, CA).

2 See *Spiers and Pond Limited v Finsbury Metropolitan Borough Council* (1956) 1 RRC 219, 55 LGR 361; cf *Larner v LCC* [1949] 2 KB 683, [1949] 1 All ER 964. See also *Slater v Burnley Corpn* (1888) 53 JP 70; *Slater v Burnley Corpn (No 2)* (1889) 53 JP 535; *Bootle-cum-Linancre Corpn v Lancashire County Council* (1890) 60 LJQB 323, 7 TLR 179, CA; *Selmes v Judge* (1871) LR 6 QB 724; *Stubbs v Richmond upon Thames London Borough Council* [1989] RA 1, CA. As to the former general rule that money paid under mistake of law was irrecoverable at common law see MISTAKE vol 32 (2005 Reissue) para 67 et seq.

Under previous rating legislation, it had been held that Parliament must have intended rating authorities not to retain rates paid under a mistake of law or upon an erroneous valuation unless there were special circumstances justifying retention of the amount paid: see *R v Tower Hamlets London Borough Council, ex p Chetnik Developments Ltd* [1988] AC 858, [1988] 1 All ER 961. However that case was considering the General Rate Act 1967 s 9 (repealed) (as to which see para 2 ante) and the discretionary power so conferred on charging authorities does not appear in current legislation.

3 See *Woolwich Equitable Building Society v IRC* [1993] AC 70, sub nom *Woolwich Building Society v IRC (No 2)* [1992] 3 All ER 737, HL; and RESTITUTION vol 40(1) (2007 Reissue) para 58 et seq.

4 See *Kleinwort Benson Ltd v Lincoln City Council* [1999] 2 AC 349, [1998] 4 All ER 513, HL; and RESTITUTION vol 40(1) (2007 Reissue) para 36 et seq. See also *R v Barking and Dagenham London Borough Council, ex p Magon* [2004] RA 269, CA (restitution was appropriate where overpayment occurred as the consequence of retrospective alterations to a rating list).

203. Limitation on matters to be raised in enforcement proceedings. Any matter which could be the subject of an appeal as regards matters connected with the alteration of rating lists[1] may not be raised in proceedings under the enforcement provisions[2].

1 Ie an appeal made under regulations which have been made under the Local Government Finance Act 1988 s 55 (as amended) (see para 128 ante): see the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 23(1). Such regulations may relate to any matter which should be remedied by an alteration of a non-domestic rating list compiled under the Local Government Finance Act 1988 Pt III (ss 41–67) (as amended) (see para 7 et seq ante): see s 55 (as amended); and para 128 ante. As to local non-domestic rating lists see para 121 et seq ante.

2 Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 23(1). The proceedings referred to in the text are proceedings under Pt III (regs 10–23) (as amended) (see paras 193 et seq ante, 204 et seq post): see reg 23(1).

204. Proof of content of local non-domestic rating lists. The contents of a local non-domestic rating list[1] (or an extract from such a list) may be proved in proceedings under the enforcement provisions[2] by production of a copy of the list (or relevant part of the list) purporting to be certified by the proper officer of the billing authority[3] to which the list (or extract) relates to be a true copy[4].

1 As to local non-domestic rating lists see para 121 et seq ante.

2 Ie under the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, Pt III (regs 10–23) (as amended) (see paras 193 et seq ante, 205 et seq post): see reg 23(2) (as amended: see note 4 infra).

3 As to billing authorities see para 5 ante.

4 Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 23(2) (amended by SI 1993/616).

205. Notifications. If a liability order[1] has been made and[2] any part of the amount[3] in respect of which the order was made would (if paid) fall to be repaid or credited against any subsequent liability, that part is to be treated[4] as paid on the day the notification is given (or on the day that the multiplier in substitution is set[5], as the case may be) and accordingly as no longer outstanding[6].

If, after a warrant is issued or term of imprisonment is fixed[7], and before the term of imprisonment has begun or been fully served, a billing authority gives such a notification as is prescribed[8], or sets a multiplier in substitution[9], it must forthwith notify accordingly the designated officer for the court which issued the warrant and (if the debtor[10] is detained) the governor or keeper of the prison or place where he is detained or such other person as has lawful custody of him[11].

1 For the meaning of 'liability order' see para 193 note 3 ante. As to liability orders see paras 193–194 ante.

2 Ie by virtue of:

(1) a notification which is given by the billing authority or an authorised person under the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 8(4) (as amended) (see para 191 ante), reg 8(7) (as amended) (see para 191 ante), reg 9(2) (as amended) (see para 182 ante), reg 7(1), Sch 1 para 6(3) (as amended) (see para 185 ante), Sch 1 para 7(2)(a) (as substituted) (see para 186 ante) or Sch 1 para 7A(2) (as added and amended) (see para 187 ante) (including a notification given under Sch 1 para 7A(2) (as added and amended) pursuant to Sch 1 para 7B(2) (as added) (see para 188 ante)) (Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 23(3)(a) (amended by SI 1992/1512; SI 1993/616; SI 1996/1880)); or

(2) the Local Government Finance Act 1988 s 56(2), Sch 7 para 10(4) (multiplier set in substitution by special authority) (see para 86 note 6 ante) applying in any case (Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 23(3)(b)).

For these purposes, 'authorised person' means any person authorised by a billing authority to exercise any functions relating to the collection and enforcement of non-domestic rates: reg 21(7) (added by SI 1996/1880). As to billing authorities see para 5 ante.

3 Ie the amount mentioned in the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 12(6)(a) (see para 194 ante): see reg 23(3).

4 Ie for the purposes of ibid Pt III (regs 10–23) (as amended) (see para 193 et seq ante): see reg 23(3).

5 Ie under the Local Government Finance Act 1988 Sch 7 para 10 (as amended) (see para 86 note 6 ante): see the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 23(3).

6 Ibid reg 23(3).

7 Ie under ibid reg 16(3) (see para 197 ante): see reg 23(4) (as amended: see note 11 infra).

8 Ie such a notification as is mentioned in ibid reg 23(3)(a) (as amended) (see note 2 head (1) supra) in the case in question: see reg 23(4) (as amended: see note 11 infra).

9 Ie so that the Local Government Finance Act 1988 Sch 7 para 10(4) (see para 86 note 6 ante) applies in the case in question: see reg 23(4) (as amended: see note 11 infra).

10 For the meaning of 'debtor' see para 195 note 3 ante.

11 Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 23(4) (amended by SI 1993/616; SI 2005/617; in relation to England only by SI 2001/362; in relation to Wales only by SI 2001/1076).

206. Outstanding liabilities on death. The Secretary of State (or the Welsh Ministers, as the case may be)[1] may make such regulations[2] as he sees fit to deal with any case where a person dies and at any time before his death he was (or is alleged to have been) subject to a non-domestic rate[3]. Accordingly, where:

(1) before the deceased's death, a sum has become payable by him under the non-domestic rating billing provisions[4] or by way of relevant costs[5] in respect of a non-domestic rate but has not been paid[6]; or

(2) after the deceased's death, a sum would, but for his death (and whether or not on the service of a notice) become payable by him[7] in respect of a non-domestic rate[8],

his executor or administrator is[9] liable to pay the sum and may deduct out of the assets and effects of the deceased any payments made (or to be made)[10].

Where, before the deceased's death, a sum in excess of his liability[11] (including relevant costs[12] payable by him) in respect of a non-domestic rate has been paid (whether the excess arises because of his death or otherwise) and has not been repaid or credited under the non-domestic rating billing provisions[13], his executor or administrator is entitled to the sum[14].

In so far as is relevant to such liability[15] in the administration of the deceased's estate, the executor or administrator may institute, continue or withdraw proceedings[16]. However, any matter which could be the subject of an appeal as regards matters connected with the alteration of rating lists[17] may not be raised in proceedings to enforce a liability arising upon a ratepayer's death[18]. The contents of a local non-domestic rating list[19] (or an extract from such a list) may be proved in such proceedings by production of a copy of the list (or relevant part of the list) purporting to be certified by the proper officer of the billing authority[20] to which the list (or extract) relates to be a true copy[21].

1 As to the Secretary of State and the Welsh Ministers see para 3 ante.

2 As to the making of regulations under the Local Government Finance Act 1988 generally see para 3 ante.

3 See the Local Government Finance Act 1988 s 63; and para 175 ante. Accordingly, the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 24 (as amended) applies where a person dies and at any time before his death he was (or is alleged to have been) subject to a non-domestic rate: reg 24(1).

4 Ie under ibid Pt II (regs 3–9) (as amended) (see para 176 et seq ante): see reg 24(2)(a) (as amended: see note 6 infra).

5 Costs are relevant costs for the purposes of ibid reg 24(2) (as amended) and reg 24(4) (see the text and notes 11–14 infra) if:

(1) an order or warrant (as the case may be) was made by the court in respect of them under reg 12(6)(b), (7) (reg 12(7) as added and amended) (see para 194 ante), reg 16(4)(b) (see para 197 ante) or in proceedings under reg 20 (as amended) (see para 200 ante) (reg 24(5)(a) (amended by SI 1990/145)); or

(2) they are charges connected with distress which may be recovered pursuant to the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 14(2)(b) (see para 195 ante) (reg 24(5)(b)).

6 Ibid reg 24(2)(a) (amended by SI 1990/145).

7 Ie under the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, Pt II (as amended) (see para 176 et seq ante): see reg 24(2)(b).

8 Ibid reg 24(2)(b). Where head (2) in the text applies, the liability of the executor or administrator does not arise until the service on him of a notice requiring payment of the sum: reg 24(3).

9 Ie subject to ibid reg 24(3) (see note 8 supra) and to the extent that it is not in excess of the deceased's liability under the Local Government Finance Act 1988 (including relevant costs payable by him) in respect of the rate: see the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 24(2).

10 Ibid reg 24(2). A sum payable under reg 24(2) (as amended) is enforceable in the administration of the deceased's estate as a debt of the deceased and accordingly:

(1) no liability order need be applied for in respect of it, after the deceased's death, under reg 12 (as amended) (see paras 193–194 ante) (reg 24(6)(a)); and

(2) the liability of the executor or administrator is a liability in his capacity as such (reg 24(6)(b)).

For the meaning of 'liability order' see para 193 note 3 ante. As to liability orders see paras 193–194 ante.

11 Ie his liability under the Local Government Finance Act 1988: see the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 24(4).

12 As to relevant costs for these purposes see note 5 supra.

13 Ie under the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, Pt II (as amended) (see para 176 et seq ante): see reg 24(4).

14 Ibid reg 24(4). Interest is usually due on such payments: see the Non-Domestic Rating (Payment of Interest) Regulations 1990, SI 1990/1904 (as amended); and para 128 ante.

15 Ie his liability under the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 24 (as amended): see reg 24(8).
16 Ibid reg 24(8). The text refers to proceedings whether by way of appeal under regulations under the Local Government Finance Act 1988 s 55 (as amended) (see para 128 ante) or otherwise: see the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 24(8).
17 Ie an appeal made under regulations which have been made under the Local Government Finance Act 1988 s 55 (as amended) (see para 128 ante): see the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 23(1), applied by reg 24(7); and para 203 ante.
18 Ibid reg 23(1), applied by reg 24(7). The proceedings referred to in the text are proceedings under reg 24 (as amended): see reg 23(1), as so applied.
19 As to local non-domestic rating lists see para 121 et seq ante.
20 As to billing authorities see para 5 ante.
21 Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 23(2) (amended by SI 1993/616), applied by the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 24(7).

(iii) Central Non-domestic Rating Lists

A. DEMAND

(A) Demand Notices

207. Demand notices and their service. For each chargeable financial year[1], the Secretary of State (or the Welsh Ministers, as the case may be)[2] must in accordance with the central non-domestic rating lists regulations[3] serve a notice in writing on every person who is a ratepayer[4] in relation to the year[5]. Different demand notices[6] are to be served for different chargeable financial years[7].

In relation to England[8], any notice which is required or authorised by the central non-domestic rating lists regulations[9] to be served on a person by the Secretary of State may be served[10]:

(1) in the case of a body corporate, by addressing the notice or information to the secretary of the body[11], and: (a) delivering it to him[12]; (b) leaving it at or by sending it by post to him at the registered or principal office of the body[13]; or (c) sending it to him by electronic communication[14] to such address[15] as may be notified by him for that purpose[16]; and
(2) in any other case: (a) by delivering the notice or information to the person[17]; (b) by leaving it at or sending it by post to him at his last place of abode or an address given by him at which service will be accepted[18]; or (c) by sending it to him by electronic communication to such an address as may be notified by him for that purpose[19].

For the purpose of any legal proceedings in England, a notice given by the means described in head (1)(c) or in head (2)(c) above must, unless the contrary is proved, be treated as served on the second business day after it was sent[20].

In relation to Wales, any notice required or authorised by the central non-domestic rating lists regulations[21] to be given to or served on a person by the Welsh Ministers may be given or served[22]:

(i) in the case of an individual, by delivering it to him, or by leaving it at or by sending it by post to him at his last-known place of abode[23];
(ii) in the case of a body corporate, by addressing it to the secretary of the body and by delivering it to him, or by leaving it at or by sending it by post to him at the registered or principal office of the body[24]; or
(iii) by leaving it at, or by sending it by post to the person at, an address given by the person as an address at which service of the notice will be accepted[25].

1 For the purposes of the Local Government Finance Act 1988, chargeable financial years are financial years beginning in 1990 and subsequent years: s 145(1). For the meaning of 'financial year' for these purposes see para 1 note 1 ante.
2 As to the Secretary of State and the Welsh Ministers see para 3 ante.
3 Ie in accordance with the Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989, SI 1989/2260, regs 5–7 (see para 208 et seq post): see reg 4(1). As to central non-domestic rating lists see para 125 et seq ante.
4 For these purposes, 'ratepayer', in relation to a chargeable financial year, means a person liable to pay an amount under the Local Government Finance Act 1988 s 54 (see para 69 ante) in respect of the year: Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989, SI 1989/2260, reg 2(1).
5 Ibid reg 4(1).
6 For these purposes, 'demand notice' means the notice required to be served by ibid reg 4(1) (see the text and notes 1–5 supra): reg 2(1).
7 Ibid reg 4(2).
8 For the meaning of 'England' see para 1 note 2 ante.
9 Ie by the Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989, SI 1989/2260 (as amended): see reg 3(1) (as substituted: see note 10 infra).
10 Ibid reg 3(1) (reg 3 substituted in relation to England by SI 2006/237).
11 Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989, SI 1989/2260, reg 3(1)(a) (as substituted in relation to England: see note 10 supra).
12 Ibid reg 3(1)(a)(i) (as substituted in relation to England: see note 10 supra).
13 Ibid reg 3(1)(a)(ii) (as substituted in relation to England: see note 10 supra). Where a company registered outside the United Kingdom has an office in the United Kingdom, that office is to be treated for the purpose of reg 3(1)(a)(ii) (as substituted in relation to England) as its principal office; and where it has more than one office in the United Kingdom its principal office in the United Kingdom is to be treated as its principal office for that purpose: reg 3(5) (as so substituted). For the meaning of 'United Kingdom' see para 127 note 20 ante. As to registration under the Companies Act 1985 see COMPANIES vol 7(1) (2004 Reissue) para 221 et seq; and as to the registered office of a company see COMPANIES vol 7(1) (2004 Reissue) para 346.
14 For these purposes, 'electronic communication' means a communication transmitted (whether from one person to another, from one device to another or from a person to a device or vice versa) by means of an electronic communications network within the meaning of the Communications Act 2003 s 32(1) (see TELECOMMUNICATIONS AND BROADCASTING vol 45(1) (2005 Reissue) para 64), or by other means but while in electronic form: Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989, SI 1989/2260, reg 2(1) (definition added in relation to England by SI 2006/237).
15 For these purposes, 'address', in relation to electronic communications, includes any number or address used for the purposes of such communications: Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989, SI 1989/2260, reg 2(1) (definition added in relation to England by SI 2006/237).
16 Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989, SI 1989/2260, reg 3(1)(a)(iii) (as substituted in relation to England: see note 10 supra). A person who has notified an address for the purpose of reg 3(1)(a)(iii) (as substituted in relation to England) must, by notice in writing to the Secretary of State, advise the Secretary of State of any change in that address; and the change takes effect on the third business day after the date on which the notice is received by the Secretary of State: reg 3(3) (as so substituted). A person who has notified an address for the purpose of reg 3(1)(a)(iii) (as substituted in relation to England) also may, by notice in writing to the Secretary of State, withdraw that notification; and the withdrawal takes effect on the third business day after the date on which the notice is received by the Secretary of State: reg 3(4) (as so substituted). For these purposes, 'business day' means any day except a Saturday or Sunday, Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 (see TIME vol 45(2) (Reissue) para 220) in England and Wales: Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989, SI 1989/2260, reg 2(1) (definition added in relation to England by SI 2006/237). For the meaning of 'Wales' see para 1 note 2 ante.
17 Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989, SI 1989/2260, reg 3(1)(b)(i) (as substituted in relation to England: see note 10 supra).
18 Ibid reg 3(1)(b)(ii) (as substituted in relation to England: see note 10 supra).
19 Ibid reg 3(1)(b)(iii) (as substituted in relation to England: see note 10 supra). A person who has notified an address for the purpose of reg 3(1)(b)(iii) (as substituted in relation to England) must, by notice in writing to the Secretary of State, advise the Secretary of State of any change in that address; and the change takes effect on the third business day after the date on which the notice is received by the Secretary of State: reg 3(3) (as so substituted). A person who has notified an address for the purpose of reg 3(1)(b)(iii) (as substituted in relation to England) also may, by notice in writing to the Secretary of

State, withdraw that notification; and the withdrawal takes effect on the third business day after the date on which the notice is received by the Secretary of State: reg 3(4) (as so substituted).

20 Ibid reg 3(2) (as substituted in relation to England: see note 10 supra).

21 Ie by the Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989, SI 1989/2260 (as amended): see reg 3(1).

22 Ibid reg 3(1).

23 Ibid reg 3(1)(a).

24 Ibid reg 3(1)(b). For the purposes of reg 3(1)(b), the principal office of a company registered outside the United Kingdom is to be its principal office within the United Kingdom: reg 3(2).

25 Ibid reg 3(1)(c).

208. Time of service of demand notices. A demand notice[1] must be served[2] on or as soon as practicable after[3]:

(1) except in a case falling within head (2) below, 1 April in the relevant year[4]; or

(2) if the ratepayer's[5] name is not shown in a central list[6] for that day, the first day after that day for which it is so shown[7].

A demand notice may, if the non-domestic multiplier for the relevant year has been determined[8], be served before the beginning of the relevant year on a person whose name, for the day on which it is issued[9], is shown[10] in a central list[11].

1 For the meaning of 'demand notice' see para 207 note 6 ante.

2 Ie subject to the Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989, SI 1989/2260, reg 5(2) (see the text and notes 8–11 infra): see reg 5(1).

3 Ibid reg 5(1).

4 Ibid reg 5(1)(a). For these purposes, 'relevant year' in relation to a notice means the chargeable financial year to which the notice relates: reg 2(1). For the purposes of the Local Government Finance Act 1988, chargeable financial years are financial years beginning in 1990 and subsequent years: s 145(1). For the meaning of 'financial year' for these purposes see para 1 note 1 ante.

5 For the meaning of 'ratepayer' see para 207 note 4 ante.

6 As to central non-domestic rating lists see para 125 et seq ante.

7 Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989, SI 1989/2260, reg 5(1)(b).

8 Ie under the Local Government Finance Act 1988 s 56(2), Sch 7 (as amended) (see para 86 ante): see the Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989, SI 1989/2260, reg 5(2). As to non-domestic rating multipliers see para 86 ante.

9 For these purposes, where references are made to the day on which a notice is issued, they are to be taken to be references:

(1) if the notice is served in the manner described in ibid reg 3 (substituted in relation to England) (see para 207 ante) by being left at, or sent by post to, a person's last-known place of abode or a body's registered or principal office (as the case may be), to the day on which it is so left or posted (reg 2(2)(a)); or

(2) in any other case, to the day on which it is served (reg 2(2)(b)).

10 Ie or would be so shown if a list sent under the Local Government Finance Act 1988 s 52(5) (as amended) (see para 125 ante) were in force: see the Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989, SI 1989/2260, reg 5(2).

11 Ibid reg 5(2). If a demand notice is so served, references to a ratepayer are, in relation to that notice and so far as the context permits, to be construed as references to that person: reg 5(2).

209. Payments under demand notices. If a demand notice[1] is issued before or during the relevant year[2] and the ratepayer's[3] name is shown in a central list[4] for the day on which it is issued[5], the notice must require payment of an amount equal to the estimate made by the Secretary of State (or the Welsh Ministers, as the case may be)[6] of the amount payable[7] for the year, made as respects periods after the issue of the notice on the assumption that the ratepayer's name will be shown in a central list for every day in the relevant year after that day[8].

If a demand notice is issued after the end of the relevant year, it must require payment of the amount payable for the year[9].

1 For the meaning of 'demand notice' see para 207 note 6 ante.

2 For the meaning of 'relevant year' see para 208 note 4 ante.
3 For the meaning of 'ratepayer' see para 207 note 4 ante.
4 Ie or would be so shown if a list sent under the Local Government Finance Act 1988 s 52(5) (as amended) (see para 125 ante) were in force: see the Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989, SI 1989/2260, reg 6(1). As to central non-domestic rating lists see para 125 et seq ante.
5 As to references to the day on which a notice is issued see para 208 note 9 ante.
6 As to the Secretary of State and the Welsh Ministers see para 3 ante.
7 For these purposes, the 'amount payable' for a chargeable financial year (or part of a chargeable financial year) in relation to a ratepayer and a hereditament means: (1) the amount the ratepayer is liable to pay to the Secretary of State as regards the hereditament in respect of the year or part under the Local Government Finance Act 1988 s 54 (see para 69 ante); or (2) where an amount falls to be credited by the Secretary of State (or the Welsh Ministers, as the case may be) against the ratepayer's liability in respect of the year (or part), the amount (if any) by which the amount referred to in head (1) supra exceeds the amount falling to be so credited: Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989, SI 1989/2260, reg 2(1) (definition substituted by SI 1991/142). For the purposes of the Local Government Finance Act 1988, chargeable financial years are financial years beginning in 1990 and subsequent years: s 145(1). For the meaning of 'financial year' for these purposes see para 1 note 1 ante. For the meaning of 'hereditament' see para 33 et seq ante.
8 Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989, SI 1989/2260, reg 6(1). If a demand notice is issued during the relevant year but reg 6(1) does not apply, the notice is to require payment of an amount equal to the amount payable by the ratepayer for the period in the year up to the day for which his name is last shown in a central list: reg 6(2). If, after a notice to which reg 6(2) applies is served, the ratepayer's name is shown again in a central list for a day in the relevant year, a further notice must be served on him requiring payments with respect to the amount payable for the period in the relevant year beginning with the day for which his name is so shown again in the list; and regs 5–8 (reg 8 as amended) (see paras 208 ante, 211–217 post) (and, so far as applicable, reg 7(1), Schedule (as amended) (see paras 212–216 post)) are to apply to the further notice with respect to that period as if it were a demand notice and his name had not been shown in a central list for a day before that period begins: reg 6(3).
9 Ibid reg 6(4).

210. Demand notices: final adjustment. Where:

(1) a notice has been issued by the Secretary of State (or by the Welsh Ministers, as the case may be)[1] requiring a payment or payments to be made by a ratepayer[2] in respect of the amount payable[3] for a chargeable financial year[4] or part of a chargeable financial year[5];
(2) the payment or payments required to be paid are found to be in excess of or less than the amount payable for the year or the part[6]; and
(3) provision for adjusting the amounts required under the notice and (as appropriate) for the making of additional payments or the repaying or crediting of any amount overpaid is not made by any other provision[7],

the Secretary of State (or the Welsh Ministers, as the case may be) must as soon as practicable after the expiry of the year or the part of a year serve a further notice on the ratepayer stating the amount payable for the year or part and adjusting (by reference to that amount) the amounts required to be paid under the notice referred to in head (1) above[8].

1 Ie under the Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989, SI 1989/2260 (as amended): see reg 9(1)(a). As to the Secretary of State and the Welsh Ministers see para 3 ante.
2 For the meaning of 'ratepayer' see para 207 note 4 ante.
3 For the meaning of 'amount payable' see para 209 note 7 ante.
4 For the purposes of the Local Government Finance Act 1988, chargeable financial years are financial years beginning in 1990 and subsequent years: s 145(1). For the meaning of 'financial year' for these purposes see para 1 note 1 ante.
5 Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989, SI 1989/2260, reg 9(1)(a).
6 Ibid reg 9(1)(b).

7 Ibid reg 9(1)(c). The text refers to any other provision of the Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989, SI 1989/2260 (as amended), the Local Government Finance Act 1988, or any agreement entered into under the Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989, SI 1989/2260, reg 7(3) (see para 211 post): see reg 9(1)(c).

8 Ibid reg 9(2). If the amount stated in the further notice is greater than the amount required to be paid under the notice referred to in reg 9(1)(a) (see head (1) in the text), the amount of the difference for which such other provision as is mentioned in reg 9(1)(c) (see head (3) in the text) is not made is due from the ratepayer to the Secretary of State (or the Welsh Ministers, as the case may be) on the expiry of such period (being not less than 14 days) after the day of issue of the notice as is specified in it: reg 9(3).

If there has been an overpayment in respect of any liability of the ratepayer under the Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989, SI 1989/2260 (as amended), the amount overpaid for which such other provision as is mentioned in reg 9(1)(c) is not made: (1) must be repaid if the ratepayer so requires (reg 9(4)(a)); or (2) in any other case must (as the Secretary of State or the Welsh Ministers, as the case may be, determine) either be repaid or be credited against any subsequent liability of the ratepayer to pay anything to the Secretary of State (or the Welsh Ministers, as the case may be) by way of non-domestic rate (reg 9(4)(b)).

(B) Payment by Instalments

211. Payment by instalments. The Secretary of State (or the Welsh Ministers, as the case may be)[1] and a ratepayer[2] may agree that the estimate of the amount payable[3] which is required to be paid[4] should be paid in such manner as is provided by the agreement, rather than in accordance with the non-domestic rate instalment scheme[5].

If such an agreement[6] in relation to the relevant year[7] has been reached between the Secretary of State (or the Welsh Ministers, as the case may be) and the ratepayer before the demand notice[8] is issued, a notice[9] must require the estimate of the amount payable to be paid in accordance with that agreement[10].

Unless such an agreement[11] in relation to the relevant year has been reached between the ratepayer and the Secretary of State (or the Welsh Ministers, as the case may be) before the demand notice is issued, a notice[12] must require the estimate of the amount payable to be paid by instalments[13].

A notice with retrospective application[14] requires payment of the amount payable on the expiry of such period (being not less than 14 days) after the day of issue of the notice[15] as is specified in it[16].

No payment in respect of the amount payable by a ratepayer for any chargeable financial year[17] (whether interim, final or sole) need be made unless a notice duly served[18] requires it[19].

1 As to the Secretary of State and the Welsh Ministers see para 3 ante.

2 For the meaning of 'ratepayer' see para 207 note 4 ante.

3 For the meaning of 'amount payable' see para 209 note 7 ante.

4 Ie under a notice to which the Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989, SI 1989/2260, reg 6(1) (see para 209 ante) applies: see reg 7(3).

5 Ibid reg 7(3). The text refers to the non-domestic rate instalment scheme as set out in reg 7(1), Schedule (as amended) (see paras 212–216 post): see reg 7(3).

Notwithstanding anything in reg 7(1), (2) (see the text and notes 6–13 infra) or in reg 7(3), such an agreement may be entered into either before or after the demand notice concerned is issued, and may make provision for the cessation or adjustment of payments, and for the making of fresh estimates, in the event of the estimate mentioned in reg 6(1) (see para 209 ante) turning out to be wrong; and if it is entered into after the demand notice has been issued, it may make provision dealing with the treatment for the purposes of the agreement of any sums paid in accordance with the Schedule (as amended) before it was entered into: reg 7(4).

6 Ie under ibid reg 7(3) (see the text and notes 1–5 supra): see reg 7(2).

7 For the meaning of 'relevant year' see para 208 note 4 ante.

8 For the meaning of 'demand notice' see para 207 note 6 ante.

9 Ie a notice to which the Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989, SI 1989/2260, reg 6(1) (see para 209 ante) applies: see reg 7(2).

10 Ibid reg 7(2).

11 Ie under ibid reg 7(3) (see the text and notes 1–5 supra): see reg 7(1).
12 Ie a notice to which ibid reg 6(1) (see para 209 ante) applies: see reg 7(1).
13 Ibid reg 7(1). The instalments must be paid as mentioned in the text in accordance with Schedule Pt I (paras 1–5) (see para 212 post); and where such instalments are required, Schedule Pt II (paras 6–8) (as amended) (see paras 213–216 post) applies for their cessation or adjustment in the circumstances described in Schedule Pt II (as amended): see reg 7(1).
14 Ie a notice to which ibid reg 6(2), (4) (see para 209 ante) applies: see reg 7(5).
15 As to references to the day on which a notice is issued see para 208 note 9 ante.
16 Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989, SI 1989/2260, reg 7(5).
17 For the purposes of the Local Government Finance Act 1988, chargeable financial years are financial years beginning in 1990 and subsequent years: s 145(1). For the meaning of 'financial year' for these purposes see para 1 note 1 ante.
18 Ie a notice served under the Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989, SI 1989/2260 (as amended): see reg 7(6). As to service of demand notices see paras 207–208 ante.
19 Ibid reg 7(6).

212. Payment of the aggregate amount under the non-domestic rate instalment scheme. The provisions as to payment of the aggregate amount[1] apply where the demand notice[2] is issued on or before 31 December in the relevant year[3]. The aggregate amount is payable in monthly instalments[4], the number of such instalments being ten or, if less, the number of whole months remaining in the relevant year after the issue of the notice less one[5].

The months in which the instalments are payable must be uninterrupted but[6] are to be such months in the relevant year as are specified in the notice; and the instalments are to be payable on such day in each month as is so specified[7].

If the aggregate amount divided by the number of instalments gives an amount which is a multiple of a pound, the instalments are to be of that amount[8]. However, if the aggregate amount so divided would not give such an amount, a statutory formula must be applied in respect of calculating the instalments due[9].

The demand notice must be issued at least 14 days before the day on which the first instalment is due under it[10].

1 Ie the provisions contained in the Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989, SI 1989/2260, reg 7(1), Schedule para 1: see Schedule para 1(1). For the purposes of Schedule Pt I (paras 1–5), the 'aggregate amount' means the amount of the estimate referred to in reg 6(1) (see para 209 ante): Schedule para 5.
2 For the meaning of 'demand notice' see para 207 note 6 ante.
3 Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989, SI 1989/2260, Schedule para 1(1). For the meaning of 'relevant year' see para 208 note 4 ante. Schedule para 1 has effect subject to Schedule para 3 (see Schedule para 1(1)), which applies special provisions to cases where instalments payable in accordance with Schedule para 1 would produce an amount for an instalment of less than £50 (see Schedule para 3).
4 Ie except where the demand notice is issued between 1 January and 31 March in the relevant year, in which case the aggregate amount is payable in a single instalment on such day as is specified in the notice: see ibid Schedule para 2.
5 Ibid Schedule para 1(2).
6 Ie subject to the provision as to lack of interruption and subject also to ibid Schedule para 4 (see the text and note 10 infra): see Schedule para 1(3).
7 Ibid Schedule para 1(3).
8 Ibid Schedule para 1(4).
9 See ibid Schedule para 1(5).
10 Ibid Schedule para 4.

213. Cessation and adjustment of instalments: ratepayer's name no longer shown in a central list. Where the demand notice[1] has been served on a ratepayer[2] by the Secretary of State (or the Welsh Ministers, as the case may be)[3], and for a day in

the relevant year[4] after its issue (the 'relevant day') the ratepayer's name is no longer shown in a central list[5], no payments of instalments falling due after the relevant day are payable under the notice[6].

The Secretary of State (or the Welsh Ministers, as the case may be) must, on the relevant day or as soon as practicable after that day, serve a notice on the ratepayer stating the amount payable[7] for the period in the relevant year up to the relevant day[8].

If these provisions[9] apply in relation to a demand notice, and after the relevant day the ratepayer's name is shown again in a central list for a day in the relevant year, a further notice must be served on him requiring payments with respect to the amount payable for the period in the relevant year beginning with the day for which his name is so shown again in the list[10].

1 For the meaning of 'demand notice' see para 207 note 6 ante.

2 For the meaning of 'ratepayer' see para 207 note 4 ante.

3 As to the Secretary of State and the Welsh Ministers see para 3 ante.

4 For the meaning of 'relevant year' see para 208 note 4 ante.

5 Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989, SI 1989/2260, reg 7(1), Schedule para 6(1). As to central non-domestic rating lists see para 125 et seq ante.

6 Ibid Schedule para 6(2). This provision is subject to Schedule para 6(5) (see note 8 infra) and Schedule para 6(6) (see notes 9–10 infra): see Schedule para 6(2).

7 For the meaning of 'amount payable' see para 209 note 7 ante.

8 Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989, SI 1989/2260, Schedule para 6(3). If the amount stated in Schedule para 6(3) is less than the aggregate amount of any instalments which have fallen due on or before the relevant day, the difference is to go in the first instance to discharge any liability to pay the instalments (to the extent that they remain unpaid); and any residual overpayment in respect of any liability of the ratepayer under the Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989, SI 1989/2260 (as amended):

(1) must be repaid if the ratepayer so requires (Schedule para 6(4)(a)); or

(2) in any other case must (as the Secretary of State or the Welsh Ministers, as the case may be, determine) either be repaid or credited against any subsequent liability of the ratepayer to pay anything to the Secretary of State (or the Welsh Ministers, as the case may be) by way of non-domestic rate (Schedule para 6(4)(b)).

If the amount stated in Schedule para 6(3) is greater than the aggregate amount of any instalments which have fallen due on or before the relevant day, the difference between the two is due from the ratepayer to the Secretary of State (or the Welsh Ministers, as the case may be) on the expiry of such period (being not less than 14 days) after the day of issue of the notice served under Schedule para 6(3) as is specified in it: Schedule para 6(5).

9 Ie ibid Schedule para 6: see Schedule para 6(6).

10 Ibid Schedule para 6(6). Regulations 5–8 (and, as far as applicable, Schedule (as amended)) (see paras 208 et seq ante, 214 et seq post) apply to the further notice with respect to that period as if it were a demand notice and his name had not been shown in a central list for a day before that period begins: Schedule para 6(6).

214. Cessation and adjustment of instalments: false factor or assumption made in relation to estimate. Subject to transitional provisions[1], where the demand notice[2] has been served on a ratepayer[3] by the Secretary of State (or by the Welsh Ministers, as the case may be)[4], any factor or assumption by reference to which the estimate[5] was calculated is shown to be false in respect of a day (the 'relevant day'), and the required event[6] has not occurred as regards the ratepayer[7], the Secretary of State (or the Welsh Ministers, as the case may be) must, on or as soon as practicable after the relevant day[8]:

(1) adjust the instalments (if any) payable on or after the adjustment day[9] (the 'remaining instalments') so that they accord with the amounts prescribed[10]; and

(2) serve a notice on the ratepayer stating the amount of the revised estimate[11], and the amount of any remaining instalment[12].

The amount of the revised estimate is the revised estimate of the Secretary of State (or of the Welsh Ministers, as the case may be) of the amount payable[13] for the relevant year[14].

The aggregate amount of the remaining instalments payable is equal to the amount by which the revised estimate[15] exceeds the aggregate amount of the instalments payable under the demand notice before the adjustment day; and the amount of each remaining instalment (if there are more than one) is calculated[16] as if references to the aggregate amount and to instalments were references to the aggregate amount of the remaining instalments and to the remaining instalments respectively[17].

If the revised estimate[18] exceeds the aggregate amount of the instalments payable under the demand notice before the adjustment day, but no instalments are payable under it on or after that day, the amount of the excess is due from the ratepayer to the Secretary of State (or the Welsh Ministers, as the case may be) in a single instalment on the expiry of such period (being not less than 14 days) after the day of issue of the notice[19] as is specified in it; and if in any case the revised estimate is less than the aggregate amount of the instalments payable before the adjustment day, any overpayment in respect of any liability of the ratepayer[20]: (a) must be repaid if the ratepayer so requires[21]; or (b) in any other case, must (as the Secretary of State or the Welsh Ministers, as the case may be, determine) either be repaid or credited against any subsequent liability of the ratepayer to pay anything to the Secretary of State (or the Welsh Ministers, as the case may be) by way of non-domestic rate[22].

1 Ie subject to the Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989, SI 1989/2260, reg 7(1), Schedule para 7(1A) (as added): see Schedule para 7(1) (as amended: see note 7 infra). Accordingly, Schedule para 7 (as amended) does not apply in a case to which Schedule paras 7A, 7B (both as added) (see para 215 post) apply, except as provided in Schedule para 8(2) (as substituted) (see para 216 post): Schedule para 7(1A) (added by SI 1992/1513).

2 For the meaning of 'demand notice' see para 207 note 6 ante.

3 For the meaning of 'ratepayer' see para 207 note 4 ante.

4 As to the Secretary of State and the Welsh Ministers see para 3 ante.

5 Ie the estimate made under the Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989, SI 1989/2260, reg 6(1) (see para 209 ante) for the purpose of the notice: see Schedule para 7(1) (as amended: see note 7 infra).

6 Ie the event mentioned in ibid Schedule para 6(1) (see para 213 ante): see Schedule para 7(1) (as amended: see note 7 infra).

7 Ibid Schedule para 7(1) (amended by SI 1992/1513).

8 Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989, SI 1989/2260, Schedule para 7(2) (substituted by SI 1991/142).

9 For these purposes, 'adjustment day' means the day 14 days after the day the notice served under the Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989, SI 1989/2260, Schedule para 7(2) (as substituted) (see head (2) in the text) is issued: Schedule para 7(7).

10 Ibid Schedule para 7(2)(a) (as substituted: see note 8 supra). The amounts prescribed referred to in the text are those mentioned in Schedule para 7(4) (see the text and notes 15–17 infra): see Schedule para 7(2)(a) (as so substituted).

11 Ibid Schedule para 7(2)(b)(i) (as substituted: see note 8 supra). The amount of the revised estimate referred to in the text is that mentioned in Schedule para 7(3) (see the text and notes 13–14 infra): see Schedule para 7(2)(b)(i) (as so substituted).

12 Ibid Schedule para 7(2)(b)(ii) (as substituted: see note 8 supra).

13 For the meaning of 'amount payable' see para 209 note 7 ante.

14 Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989, SI 1989/2260, Schedule para 7(3). The text refers to the amount payable for the relevant year made on the assumption mentioned in reg 6(1) (see para 209 ante) and as if the notice mentioned in that provision were the notice referred to in Schedule para 7(2) (as substituted) (see head (2) in the text): see Schedule para 7(3). For the meaning of 'relevant year' see para 208 note 4 ante.

15 Ie the revised estimate mentioned in ibid Schedule para 7(3) (see the text and notes 13–14 supra): see Schedule para 7(4).

16 Ie in accordance with ibid Schedule para 1(4), (5) (see para 212 ante): see Schedule para 7(4).

17 Ibid Schedule para 7(4).

18 Ie the revised estimate mentioned in ibid Schedule para 7(3) (see the text and notes 13–14 supra): see Schedule para 7(5).

19 Ie the notice served under ibid Schedule para 7(2) (as substituted) (see head (2) in the text): see Schedule para 7(5).

20 Ie under the Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989, SI 1989/2260 (as amended): see Schedule para 7(5).

21 Ibid Schedule para 7(5)(a).

22 Ibid Schedule para 7(5)(b).

Where a notice has been given under Schedule para 7(2) (as substituted) (see head (2) in the text), as respects any further notice that may fall to be given under it, references in Schedule para 7 (as amended) to the demand notice and to amounts in respect of instalments payable under it must be construed (so far as the context permits) as references to the demand notice and amounts in respect of instalments payable under the notice, as from time to time previously adjusted under Schedule para 7 (as amended); and in calculating the aggregate amount of instalments payable under a demand notice before the adjustment day for the purposes of Schedule para 7(4) (see the text and notes 15–17 supra) and Schedule para 7(5) in consequence of the calculation of the revised estimate mentioned in Schedule para 7(3) (see the text and notes 13–14 supra), there is not to count as so payable any amount in respect of such instalments which has fallen to be repaid (or credited) under Schedule para 7(5) on the occasion of the giving of a previous notice under Schedule para 7(2) (as substituted), or has been paid (or credited) by way of interest under the Non-Domestic Rating (Payment of Interest) Regulations 1990, SI 1990/1904 (as amended) (as to which see para 128 ante): Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989, SI 1989/2260, Schedule para 7(6) (amended by SI 1991/142).

215. Cessation and adjustment of instalments required by transitional provisions. The central non-domestic rating lists regulations[1] applied special provisions, analogous to those applied by the local non-domestic rating lists regulations[2], where the original estimate for the purposes of the demand notice[3] was shown to be false by reason of transitional charging provisions which were introduced subsequently[4].

Such provision was made in relation to the transitional provisions contained in both the Non-Domestic Rating Act 1992[5] and the Non-Domestic Rating Act 1993[6].

1 Ie the Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989, SI 1989/2260 (as amended).

2 Ie the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058 (as amended). The special provisions referred to in this context are set out in full elsewhere in this title: see paras 187–189 ante.

3 For the meaning of 'demand notice' see para 207 note 6 ante.

4 The original estimate mentioned in the text refers to the estimate which was made by the Secretary of State under the Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989, SI 1989/2260, reg 6(1) (see para 209 ante) before the coming into force of the respective transitional provisions (as to which see the text and notes 5–6 infra).

5 Ie the Non-Domestic Rating Act 1992 ss 1–3 (s 2(2)(a) as amended). The special provision referred to in the text was made accordingly under the Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989, SI 1989/2260, reg 7(1), Schedule para 7A (added by SI 1992/1513), where no notice had been served in accordance with the Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989, SI 1989/2260, Schedule para 7(2) (as substituted) (see para 214 ante), and such provision was made under Schedule para 7B (added by SI 1992/1513), where a notice had been served in accordance with the Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989, SI 1989/2260, Schedule para 7(2) (as substituted).

6 Ie the Non-Domestic Rating Act 1993 s 1. The special provision referred to in the text was made accordingly under the Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989, SI 1989/2260, Schedule para 7C (added by SI 1993/1494), applying the Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989, SI 1989/2260, Schedule para 7A (as added: see note 5 supra) and Schedule para 7B (as added: see note 5 supra).

216. Multiple adjustments. More than one adjustment of amounts paid or payable[1] under a demand notice[2] may be made[3] as the circumstances require[4].

1 For the meaning of 'amount payable' see para 209 note 7 ante.

2 For the meaning of 'demand notice' see para 207 note 6 ante.

3 Ie under the Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989, SI 1989/2260, reg 7(1), Schedule Pt II (paras 6–8) (as amended) (see paras 213–215 ante, 217 post): see Schedule para 8(1) (as substituted: see note 4 infra).

4 Ibid Schedule para 8(1) (Schedule para 8 substituted by SI 1992/1513).

Special provision was made where a further adjustment fell to be made under the Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989, SI 1989/2260, Schedule Pt II (as amended) (see paras 213–215 ante) after the service of a transitional adjustment notice pursuant to Schedule paras 7A, 7B (both as added) (as to which see para 215 ante): see Schedule para 8(2) (as so substituted).

217. Failure to pay instalments. Where:

(1) a demand notice[1] has been served by the Secretary of State (or by the Welsh Ministers, as the case may be)[2] on a ratepayer[3];

(2) instalments are payable under the notice in accordance with the non-domestic rate instalment scheme[4]; and

(3) any such instalment is not paid in accordance with the scheme[5],

the Secretary of State (or the Welsh Ministers, as the case may be) must (unless all the instalments have fallen due) serve a further notice on the ratepayer stating the instalments required to be paid[6].

If, after the service of such a further notice[7], the ratepayer[8]:

(a) fails to pay, before the expiry of the period of seven days beginning with the day of service of the further notice, any instalments which fall due before the expiry of that period under the demand notice concerned[9]; or

(b) fails to pay any instalment which falls due after the expiry of that period under the demand notice concerned on or before the day on which it falls due[10],

the unpaid balance of the estimated amount[11] becomes payable by him at the expiry of a further period of seven days beginning with the day of the failure[12].

If any factor or assumption by reference to which the estimated amount was calculated is shown to be false before the amount payable is capable of final determination[13], the Secretary of State (or the Welsh Ministers, as the case may be) may, and if so required by the ratepayer must, make a calculation of the appropriate amount[14] with a view to adjusting the ratepayer's liability in respect of the estimated amount and (as appropriate) to[15]:

(i) requiring an interim payment from the ratepayer if the appropriate amount is greater than the estimated amount[16]; or

(ii) making an interim repayment to the ratepayer if the appropriate amount is less than the amount of the estimated amount paid[17].

On calculating the appropriate amount, the Secretary of State (or the Welsh Ministers, as the case may be) must notify the ratepayer in writing of it[18].

1 For the meaning of 'demand notice' see para 207 note 6 ante.

2 As to the Secretary of State and the Welsh Ministers see para 3 ante.

3 Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989, SI 1989/2260, reg 8(1)(a). For the meaning of 'ratepayer' see para 207 note 4 ante.

4 Ibid reg 8(1)(b). Head (2) in the text refers to instalments payable under the notice in accordance with reg 7(1), Schedule (as amended) (non-domestic rate instalment scheme) (see paras 212–216 ante): see reg 8(1)(b).

5 Ibid reg 8(1)(c).

6 Ibid reg 8(1).

7 Ie under ibid reg 8(1) (see the text and notes 1–6 supra): see reg 8(2).

8 Ibid reg 8(2).

9 Ibid reg 8(2)(a).

10 Ibid reg 8(2)(b).

11 For these purposes, 'estimated amount' means the amount last estimated under ibid reg 6(1) (see para 209 ante) for the purposes of the demand notice mentioned in reg 8(1)(a) (see head (1) in the text) or any subsequent notice given under Schedule para 7(2) (as substituted) (see para 214 ante) or, as the case may

be, Schedule paras 7A, 7B (both as added) (see para 215 ante) prior to the failure mentioned in reg 8(2), save that if in any case an interim adjustment has been required or made under reg 8(5) (see notes 13–17 infra), it means in relation to the next payment, repayment or interim adjustment in that case under reg 8 (as amended), if any, the appropriate amount by reference to which the previous interim adjustment was so made: reg 8(8) (amended by SI 1992/1513).

12 Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989, SI 1989/2260, reg 8(2). If the amount payable for the relevant year proves to be greater than the estimated amount, an additional sum equal to the difference between the two is, on the service by the Secretary of State (or by the Welsh Ministers, as the case may be) on the ratepayer of a notice stating the amount payable, due from the person to the Secretary of State (or to the Welsh Ministers, as the case may be) on the expiry of such period (being not less than 14 days) after the day of issue of the notice as is specified in it: reg 8(3). For the meaning of 'relevant year' see para 208 note 4 ante.

If the amount payable for the relevant year proves to be less than the estimated amount, the Secretary of State (or the Welsh Ministers, as the case may be) must notify the ratepayer in writing of the amount payable; and any overpayment in respect of any liability of the ratepayer under the Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989, SI 1989/2260 (as amended): (1) must be repaid if the ratepayer so requires (reg 8(4)(a)); or (2) in any other case, must (as the Secretary of State or the Welsh Ministers, as the case may be, determine) either be repaid or be credited against any subsequent liability of the ratepayer to pay anything to the Secretary of State (or to the Welsh Ministers, as the case may be) by way of non-domestic rate (reg 8(4)(b)). For the meaning of 'amount payable' see para 209 note 7 ante.

13 Ie for the purposes of ibid reg 8(3), (4) (see note 12 supra): see reg 8(5).

14 For these purposes, 'appropriate amount' is the amount which would be required to be paid under a demand notice if such a notice were issued with respect to the relevant year and the ratepayer on the day that the notice under ibid reg 8(7) (see the text and note 18 infra) is issued; and more than one calculation of the appropriate amount and interim adjustment may be made under reg 8(5) according to the circumstances: reg 8(6), (8).

15 Ibid reg 8(5).

16 Ibid reg 8(5)(a).

17 Ibid reg 8(5)(b).

18 Ibid reg 8(7). A payment required under reg 8(5)(a) (see head (i) in the text) is due from the ratepayer to the Secretary of State (or the Welsh Ministers, as the case may be) on the expiry of such period (being not less than 14 days) after the day of issue of the notice as is specified in it: reg 8(7).

B. ENFORCEMENT

218. Recovery other than by distress. A sum which has become payable under the central non-domestic rating lists regulations[1], whether to the Secretary of State (or to the Welsh Ministers, as the case may be)[2] or by way of repayment, and which has not been paid, is recoverable in a court of competent jurisdiction[3]. However, any matter which could be the subject of an appeal as regards matters connected with the alteration of rating lists[4] may not be raised in such recovery proceedings[5]. The contents of a central non-domestic rating list[6] (or an extract from such a list) may be proved in such recovery proceedings[7] by production of a copy of the list (or relevant part of the list) purporting to be credited by or on behalf of the Secretary of State (or the Welsh Ministers, as the case may be) to be a true copy[8].

1 Ie under the Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989, SI 1989/2260 (as amended): see reg 10(1).

2 As to the Secretary of State and the Welsh Ministers see para 3 ante.

3 Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989, SI 1989/2260, reg 10(1).

4 Ie an appeal made under regulations which have been made under the Local Government Finance Act 1988 s 55 (as amended) (see para 128 ante): see the Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989, SI 1989/2260, reg 10(2).

5 Ibid reg 10(2). The proceedings referred to in the text are proceedings under reg 10(1) (see the text and notes 1–3 supra): see reg 10(2).

6 As to central non-domestic rating lists see para 125 et seq ante.

7 Ie in proceedings under the Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989, SI 1989/2260, reg 10(1) (see the text and notes 1–3 supra): see reg 10(3).

8 Ibid reg 10(3).

219. Outstanding liabilities on death. The Secretary of State (or the Welsh Ministers, as the case may be)[1] may make such regulations[2] as he sees fit to deal with any case where a person dies and at any time before his death he was (or is alleged to have been) subject to a non-domestic rate[3]. Accordingly, where:

(1) before the deceased's death, a sum has become payable by him under the non-domestic rating billing provisions[4] or by way of relevant costs[5] in respect of a non-domestic rate but has not been paid[6]; or

(2) after the deceased's death, a sum would, but for his death (and whether or not on the service of a notice) become payable by him[7] in respect of a non-domestic rate[8],

his executor or administrator is[9] liable to pay the sum and may deduct out of the assets and effects of the deceased any payments made (or to be made)[10].

Where, before the deceased's death, a sum in excess of his liability[11] (including relevant costs[12] payable by him) in respect of a non-domestic rate has been paid (whether the excess arises because of his death or otherwise) and has not been repaid or credited under the non-domestic rating billing provisions[13], his executor or administrator is entitled to the sum[14].

In so far as is relevant to such liability[15] in the administration of the deceased's estate, the executor or administrator may institute, continue or withdraw proceedings[16]. However, any matter which could be the subject of an appeal as regards matters connected with the alteration of rating lists[17] may not be raised in proceedings to enforce liability for a central non-domestic rate[18]. The contents of a central non-domestic rating list[19] (or an extract from such a list) may be proved in proceedings to enforce such liability[20] by production of a copy of the list (or relevant part of the list) purporting to be credited by or on behalf of the Secretary of State (or the Welsh Ministers, as the case may be) to be a true copy[21].

1 As to the Secretary of State and the Welsh Ministers see para 3 ante.

2 As to the making of regulations under the Local Government Finance Act 1988 generally see para 3 ante.

3 See the Local Government Finance Act 1988 s 63; and para 175 ante. For these purposes, the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 24 (as amended) has effect as if references to Pt II (regs 3–9) (as amended) (see para 176 et seq ante) included a reference to the Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989, SI 1989/2260 (as amended): reg 11(a). Accordingly, the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 24 (as amended, applied and modified) applies where a person dies and at any time before his death he was (or is alleged to have been) subject to a central non-domestic rate: see reg 24(1) (as so applied).

4 Ie under the Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989, SI 1989/2260 (as amended) (see para 207 et seq ante): see the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 24(2)(a) (as amended: see note 6 infra), as applied and modified (see note 3 supra).

5 Costs are relevant costs for the purposes of ibid reg 24(2) (as amended, applied and modified) and reg 24(4) (as applied and modified) (see the text and notes 11–14 infra) if they are costs in respect of which an order of a court has been made in proceedings under the Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989, SI 1989/2260, reg 10(1) (see para 218 ante): see reg 11(b).

6 Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 24(2)(a) (amended by SI 1990/145), as applied and modified (see note 3 supra).

7 Ie under the Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989, SI 1989/2260 (as amended) (see para 207 et seq ante): see the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 24(2)(b), as applied and modified (see note 3 supra).

8 Ibid reg 24(2)(b), as applied and modified (see note 3 supra). Where head (2) in the text applies, the liability of the executor or administrator does not arise until the service on him of a notice requiring payment of the sum: reg 24(3), as applied (see note 3 supra).

9 Ie subject to ibid reg 24(3) (as applied) (see note 8 supra) and to the extent that it is not in excess of the deceased's liability under the Local Government Finance Act 1988 (including relevant costs payable by him) in respect of the rate: see the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 24(2), as applied (see note 3 supra).

10 Ibid reg 24(2), as applied (see note 3 supra). A sum payable under reg 24(2) (as amended and applied) is enforceable in the administration of the deceased's estate as a debt of the deceased: see reg 24(6) (as so applied).

11 Ie his liability under the Local Government Finance Act 1988: see the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 24(4), as applied (see note 3 supra).

12 As to relevant costs for these purposes see note 5 supra.

13 Ie under the Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989, SI 1989/2260 (as amended) (see para 207 et seq ante): see the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 24(4), as applied and modified (see note 3 supra).

14 Ibid reg 24(4), as applied and modified (see note 3 supra). Interest is usually due on such payments: see the Non-Domestic Rating (Payment of Interest) Regulations 1990, SI 1990/1904 (as amended); and para 128 ante.

15 Ie his liability under the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 24 (as amended, applied and modified): see reg 24(8), as applied (see note 3 supra).

16 Ibid reg 24(8), as applied (see note 3 supra). The text refers to proceedings whether by way of appeal under regulations under the Local Government Finance Act 1988 s 55 (as amended) (see para 128 ante) or otherwise: see the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 24(8) (as so applied).

17 Ie an appeal made under regulations which have been made under the Local Government Finance Act 1988 s 55 (as amended) (see para 128 ante): see the Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989, SI 1989/2260, reg 10(2), applied by the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 24(7) (substituted by the Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989, SI 1989/2260, reg 11(c)).

In a case where proceedings to enforce a liability under the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 24 (as amended, applied and modified) relate to an amount calculated by reference to the Local Government Finance Act 1988 s 54 (liability for a central non-domestic rate) (see para 69 ante), the Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989, SI 1989/2260, reg 10(2), (3) (see para 218 ante) applies to enforce a liability arising under the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 24 (as amended, applied and modified) as it applies to proceedings under the Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989, SI 1989/2260, reg 10(1) (see para 218 ante): see the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 24(7) (substituted by the Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989, SI 1989/2260, reg 11(c)).

18 Ibid reg 10(2), as applied (see note 17 supra). The proceedings referred to in the text are proceedings under the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 24 (as amended, applied and modified) (see the text and notes 1–17 supra): see the Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989, SI 1989/2260, reg 10(2) (as so applied).

19 As to central non-domestic rating lists see para 125 et seq ante.

20 Ie in proceedings under the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, SI 1989/1058, reg 24 (as amended, applied and modified) (see the text and notes 1–17 supra): see the Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989, SI 1989/2260, reg 10(3), as applied (see note 17 supra).

21 Ibid reg 10(3), as applied (see note 17 supra).

(9) BID LEVY ON NON-DOMESTIC RATEPAYERS

(i) Arrangements for Business Improvement Districts

A. IN GENERAL

220. Arrangements with respect to business improvement districts. A billing authority[1] may in accordance with Part 4 of the Local Government Act 2003[2] make arrangements ('BID arrangements')[3] with respect to an area (a 'business improvement district')[4] comprising all or part of the area of the authority[5]. The purpose of BID arrangements is to enable:

(1) the projects specified in the arrangements to be carried out for the benefit of the business improvement district or those who live, work or carry on any activity in the district[6]; and

(2) those projects to be financed (in whole or in part) by a levy ('BID levy')[7] imposed on the non-domestic ratepayers[8], or a class of such ratepayers, in the district[9].

The Secretary of State (or the Welsh Ministers, as the case may be)[10] may by regulations[11] make provision for or in connection with enabling two or more billing authorities to make BID arrangements with respect to a business improvement district comprising all or part of the area of each of the authorities[12].

The following persons, namely:

(a) the billing authority which has made the arrangements[13];

(b) a county council or parish council any part of whose area falls within the business improvement district[14]; and

(c) any other person authorised or required to do so in accordance with the arrangements[15],

may make financial contributions or take action for the purpose of enabling the projects specified in BID arrangements to be carried out[16].

Where BID arrangements are in force, the billing authority which made the arrangements must comply with them[17].

1 As to billing authorities for these purposes see para 5 ante.

2 Ie the Local Government Act 2003 Pt 4 (ss 41–59) (including regulations made under s 48). As to Crown application see para 5 ante.

3 'BID arrangements' has the meaning given by ibid s 41: s 59(1).

4 'Business improvement district' ('BID') has the meaning given by ibid s 41: s 59(1).

5 Ibid s 41(1). The White Paper *Strong Local Leadership – Quality Public Services* (Cm 5237) (2001) stated that the starting point in establishing a BID will be the identification of a gap or weakness in the services provided by local authorities, being a source of concern to local businesses (see para 7.19). The geographical boundaries of a BID area will be decided locally, as part of the BID proposal, and all ratepayers in that area will have a vote on the proposed BID (see para 7.20). As to the procedure for making and approving proposals for BID arrangements see para 221 et seq post.

6 Local Government Act 2003 s 41(2)(a).

7 'BID levy' has the meaning given by ibid s 41: s 59(1).

8 For these purposes, 'non-domestic ratepayer', in relation to any area, means a person subject to a non-domestic rate under the Local Government Finance Act 1988 s 43 (as amended) (see paras 60, 70 et seq ante) or s 45 (as amended) (see paras 62–63, 78–79 ante) because he is the owner or occupier of a hereditament situated in that area: Local Government Act 2003 s 59(1). For the meaning of 'hereditament' see para 33 et seq ante; definition applied by s 59(2). For the meaning of 'owner' see para 13 ante; definition applied by s 59(2). As to occupation for these purposes see para 12 et seq ante.

9 Ibid s 41(2)(b). As to the BID levy see para 225 et seq post.

10 As to the Secretary of State and the Welsh Ministers see para 3 ante.

11 As to provision for regulations made under the Local Government Act 2003 generally see s 123; and LOCAL GOVERNMENT.

The Secretary of State (or the Welsh Ministers, as the case may be) may by regulations make such supplementary, incidental, consequential or transitional provision as he considers necessary or expedient for the purposes of, in consequence of, or for giving full effect to, any provision made by or under Pt 4: s 56(1). The provision which may be made under s 56(1) includes provision amending any enactment (whenever passed or made): s 56(2). For these purposes, 'enactment' includes an enactment contained in a local or private Act or comprised in subordinate legislation within the meaning of the Interpretation Act 1978 (see STATUTES vol 44(1) (Reissue) para 1381): Local Government Act 2003 s 59(1). However, no regulations under s 56(1) which include provision amending an Act are to be made by the Secretary of State unless a draft of the statutory instrument containing the regulations (whether containing them alone or with other provisions) has been laid before, and approved by a resolution of, each House of Parliament: s 56(3). Section 56(3) does not apply in relation to Wales: s 58(1). As to the bringing of subordinate legislation made by the Welsh Ministers before the National Assembly for Wales see the Government of Wales Act 2006 Sch 11 paras 33–35 (as amended); and CONSTITUTIONAL LAW AND HUMAN RIGHTS. As to the regulations made under the power conferred by the Local Government Act 2003 s 56(1) see the Business Improvement Districts (England) Regulations 2004, SI 2004/2443; and the Business Improvement Districts (Wales) Regulations 2005, SI 2005/1312.

12 Local Government Act 2003 s 42(1). The provision which may be made by regulations under s 42 includes provision which modifies any provision made by or under Pt 4 in its application to such arrangements: s 42(2). At the date at which this volume states the law, no such regulations had been made.

13 Ibid s 43(2)(a).

14 Ibid s 43(2)(b). In its application in relation to Wales, head (b) in the text has effect as if for the reference to a county council or parish council there were substituted a reference to a community council: s 58(2). As to local government areas and authorities in England and their councils generally see LOCAL GOVERNMENT vol 29(1) (Reissue) para 25 et seq; and as to local government areas and authorities in Wales and their councils generally see LOCAL GOVERNMENT vol 29(1) (Reissue) para 41 et seq.

15 Ibid s 43(2)(c).

16 Ibid s 43(1).

17 Ibid s 44.

B. PROCEDURE FOR APPROVING PROPOSALS FOR BID ARRANGEMENTS

221. BID proposals. BID arrangements[1] are not to come into force unless proposals for the arrangements ('BID proposals') are approved by a ballot of the non-domestic ratepayers[2] in the proposed business improvement district[3] who are to be liable for the proposed BID levy[4].

The Secretary of State (or the Welsh Ministers, as the case may be)[5] may by regulations[6] make provision[7]: (1) as to the persons who may draw up BID proposals[8]; (2) as to the procedures to be followed in connection with the drawing up of BID proposals[9]; (3) as to the matters to be included in BID proposals[10]; and (4) as to the date which may be provided under BID proposals for the coming into force of BID arrangements which give effect to the proposals[11].

1 For the meaning of 'BID arrangements' see para 220 note 3 ante.

2 For the meaning of 'non-domestic ratepayer' for these purposes see para 220 note 8 ante. As to ballots to approve proposals for BID arrangements see para 222 et seq post.

3 For the meaning of 'business improvement district' ('BID') see para 220 note 4 ante.

4 Local Government Act 2003 s 49(1). For the meaning of 'BID levy' see para 220 note 7 ante. As to liability for the BID levy see para 225 post.

5 As to the Secretary of State and the Welsh Ministers see para 3 ante.

6 As to provision for regulations made under the Local Government Act 2003 generally see s 123; and LOCAL GOVERNMENT.

7 Ibid s 49(2). As to provision that may be made specifically by or under Pt 4 (ss 41–59) see para 220 note 11 ante. As to the regulations so made under the power conferred by s 49(2) see the Business Improvement Districts (England) Regulations 2004, SI 2004/2443, regs 2–4, Sch 1; and the Business Improvement Districts (Wales) Regulations 2005, SI 2005/1312, regs 2–4, Sch 1.

8 Local Government Act 2003 s 49(2)(a). See note 7 supra.

9 Ibid s 49(2)(b). See note 7 supra.

10 Ibid s 49(2)(c). See note 7 supra.

11 Ibid s 49(2)(d). See note 7 supra.

222. Ballot to approve BID proposals. BID proposals[1] are not to be regarded as approved by a ballot[2] unless two conditions are satisfied[3]. The first condition is that a majority of the persons voting in the ballot[4] have voted in favour of the BID proposals[5]. The second condition is that the aggregate of the rateable values of each hereditament[6] in respect of which a person voting in the ballot has voted in favour of the BID proposals ('A')[7] exceeds the aggregate of the rateable values of each hereditament in respect of which a person voting in the ballot has voted against the BID proposals ('B')[8].

The Secretary of State (or the Welsh Ministers, as the case may be)[9] may by regulations[10] make provision in relation to ballots[11]. The provision which may be made by such regulations includes provision[12]:

(1) as to the timing of ballots[13];
(2) as to the non-domestic ratepayers[14] entitled to vote in a ballot[15];
(3) as to the question to be asked in a ballot[16];
(4) as to the form that ballots may take[17];
(5) as to the persons who are to hold ballots[18];
(6) as to the conduct of ballots[19];
(7) conferring power on the Secretary of State (or the Welsh Ministers, as the case may be) to declare ballots void in cases of material irregularity[20];
(8) for or in connection with enabling a billing authority[21] to recover the costs of a ballot from such persons and in such circumstances as may be prescribed[22].

1 As to BID proposals see para 221 ante.
2 Ie a ballot held for the purposes of the Local Government Act 2003 s 49(1): see s 50(1).
3 Ibid s 50(1). These conditions apply also to a ballot held to renew BID arrangements: see para 224 post; and see note 11 infra.
4 As to eligibility to vote in a ballot on BID proposals see para 221 ante.
5 Local Government Act 2003 s 50(2).
6 For these purposes, the rateable value of a hereditament is that shown on the day of the ballot under the Local Government Finance Act 1988 s 42(4) (as amended) (see para 123 et seq ante): Local Government Act 2003 s 50(6). For the meaning of 'hereditament' see para 33 et seq ante; definition applied by s 59(2). As to the rateable value see para 87 et seq ante.
7 Ibid s 50(3), (4).
8 Ibid s 50(3), (5).
9 As to the Secretary of State and the Welsh Ministers see para 3 ante.
10 As to provision for regulations made under the Local Government Act 2003 generally see s 123; and LOCAL GOVERNMENT.
11 Ibid s 55(1). For these purposes, 'ballot' means a ballot held for the purposes of s 49(1) (BID proposals) (see para 221 ante) or s 54(2) (renewal of BID arrangements) (see para 224 post): s 55(5).

As to provision that may be made specifically by or under Pt 4 (ss 41–59) see para 220 note 11 ante. As to the regulations so made under the power conferred by s 55(1), (2) see the Business Improvement Districts (England) Regulations 2004, SI 2004/2443, regs 5–11, 19–21, Sch 2 (rr 1–19); and the Business Improvement Districts (Wales) Regulations 2005, SI 2005/1312, regs 5–11, 19–21, Sch 2 (rr 1–19).
12 Local Government Act 2003 s 55(2). Nothing in s 55(2) is to be taken as limiting the power conferred by s 55(1) (see the text and notes 9–11 supra): s 55(3). See note 11 supra.
13 Ibid s 55(2)(a). See note 11 supra.
14 For the meaning of 'non-domestic ratepayer' for these purposes see para 220 note 8 ante.
15 Local Government Act 2003 s 55(2)(b). No regulations under s 55(1) which include provision of the kind mentioned in s 55(2)(b) are to be made by the Secretary of State unless a draft of the statutory instrument containing the regulations (whether containing them alone or with other provisions) has been laid before, and approved by a resolution of, each House of Parliament: s 55(4). Section 55(4) does not apply in relation to Wales: s 58(1). For the meaning of 'Wales' see para 1 note 2 ante. See note 11 supra.
16 Ibid s 55(2)(c). See note 11 supra.
17 Ibid s 55(2)(d). See note 11 supra.
18 Ibid s 55(2)(e). See note 11 supra.
19 Ibid s 55(2)(f). See note 11 supra. The provision made pursuant to head (6) in the text by the Business Improvement Districts (England) Regulations 2004, SI 2004/2443, reg 7, Sch 2 (rr 1–19) and by the Business Improvement Districts (Wales) Regulations 2005, SI 2005/1312, reg 7, Sch 2 (rr 1–19) follows

the structure of the provision made in relation to local referendums and polls generally, as to which see ELECTIONS AND REFERENDUMS vol 15(3) (Reissue) para 15 et seq.

20 Local Government Act 2003 s 55(2)(g). See note 11 supra.

21 As to billing authorities for these purposes see para 5 ante.

22 Local Government Act 2003 s 55(2)(h). 'Prescribed' means prescribed by regulations made by the Secretary of State (or the Welsh Ministers, as the case may be): s 59(1). See note 11 supra.

223. Outcome of ballot. Where BID proposals[1] are approved by a ballot[2], the billing authority to which the proposals relate[3] may, in prescribed[4] circumstances, veto the proposals within such period from the date of the ballot as may be prescribed[5]. In deciding whether to exercise the veto, a billing authority is to have regard to such matters as may be prescribed[6]. If a billing authority vetoes BID proposals, it must give notice of the exercise of the veto to the persons entitled to vote in the ballot[7].

Where a billing authority vetoes BID proposals, any person who was entitled to vote in the ballot may appeal to the Secretary of State (or to the Welsh Ministers, as the case may be)[8], who may by regulations make provision in relation to such appeals[9], including provision: (1) as to the time by which an appeal is to be made[10]; (2) as to the manner in which an appeal is to be made[11]; (3) as to the procedure to be followed in connection with an appeal[12]; and (4) as to the matters to be taken into account in deciding whether to allow an appeal[13].

1 As to BID proposals see para 221 ante.

2 Local Government Act 2003 s 51(1). The text refers to a ballot held for the purposes of s 49(1) (see para 221 ante): see s 51(1).

3 As to billing authorities for these purposes see para 5 ante.

4 'Prescribed' means prescribed by regulations made by the Secretary of State (or the Welsh Ministers, as the case may be): Local Government Act 2003 s 59(1). As to the Secretary of State and the Welsh Ministers see para 3 ante. As to provision for regulations made under the Local Government Act 2003 generally see s 123; and LOCAL GOVERNMENT; and as to provision that may be made specifically by or under Pt 4 (ss 41–59) see para 220 note 11 ante. As to the regulations so made under the power conferred by s 51(2), (3) see the Business Improvement Districts (England) Regulations 2004, SI 2004/2443, reg 12; and the Business Improvement Districts (Wales) Regulations 2005, SI 2005/1312, reg 12.

5 Local Government Act 2003 s 51(2). See note 4 supra.

6 Ibid s 51(3). As to the regulations so made see note 4 supra.

7 Ibid s 51(4). The notice referred to in the text must set out the reasons for the exercise of the veto, and must give details of the right of appeal under s 52 (see the text and notes 8–13 infra): s 51(5). A copy of the notice must be sent to the Secretary of State (or to the Welsh Ministers, as the case may be): s 51(6). As to eligibility to vote in a ballot on BID proposals see para 221 ante.

8 Ibid s 52(1).

9 Ibid s 52(2). As to the regulations so made under the power conferred by s 52(2) see the Business Improvement Districts (England) Regulations 2004, SI 2004/2443, reg 13; and the Business Improvement Districts (Wales) Regulations 2005, SI 2005/1312, reg 13. As to the provisions that apply where an appeal against a veto of BID proposals is successful see para 224 note 6 post.

10 Local Government Act 2003 s 52(2)(a). See note 9 supra.

11 Ibid s 52(2)(b). See note 9 supra.

12 Ibid s 52(2)(c). See note 9 supra.

13 Ibid s 52(2)(d). See note 9 supra.

C. COMMENCEMENT AND DURATION OF BID ARRANGEMENTS

224. Commencement and duration of BID arrangements. Where BID proposals[1] are approved by a ballot[2], the billing authority concerned[3] must ensure that BID arrangements[4] which give effect to the proposals are made by the time the arrangements are to come into force[5], being on such day as may be provided under the BID proposals[6].

BID arrangements are to have effect for such period (not exceeding five years) as may be specified in the arrangements[7]. BID arrangements may be renewed for one or more periods (each of which must not exceed five years) but only if the renewal of the

arrangements on that or each occasion is approved by a ballot of the non-domestic ratepayers in the business improvement district[8] who are liable for the BID levy[9].

The Secretary of State (or the Welsh Ministers, as the case may be) may by regulations make provision[10] as to the alteration of BID arrangements[11], and as to the termination of BID arrangements[12].

1 As to BID proposals see para 221 ante.
2 Local Government Act 2003 s 53(1). The text refers to a ballot held for the purposes of s 49(1) (see para 221 ante): see s 53(1).
3 As to billing authorities for these purposes see para 5 ante.
4 For the meaning of 'BID arrangements' see para 220 note 3 ante.
5 Local Government Act 2003 s 53(2). The text refers to the time the arrangements are to come into force in accordance with s 53: see s 53(2).
6 Ibid s 53(3). However, if the BID proposals are vetoed under s 51 (see para 223 ante), BID arrangements which give effect to the proposals are not to come into force unless the Secretary of State (or the Welsh Ministers, as the case may be) allows an appeal against the veto under s 52 (see para 223 ante): s 53(4). Where the Secretary of State (or the Welsh Ministers, as the case may be) allows such an appeal, BID arrangements which give effect to the proposals are to come into force on such day as the Secretary of State (or the Welsh Ministers, as the case may be) may determine: s 53(5). The day determined under s 53(5) must not be earlier than the day mentioned in s 53(3): s 53(6). Before making a determination under s 53(5), the Secretary of State (or the Welsh Ministers, as the case may be) must consult the billing authority concerned, and such persons as appear to him to be representative of the non-domestic ratepayers who are to be liable for the proposed BID levy: s 53(7). For the meaning of 'BID levy' see para 220 note 7 ante; and for the meaning of 'non-domestic ratepayer' for these purposes see para 220 note 8 ante. As to the Secretary of State and the Welsh Ministers see para 3 ante; and as to liability for the BID levy see para 225 post.
7 Ibid s 54(1).
8 For the meaning of 'business improvement district' ('BID') see para 220 note 4 ante.
9 Local Government Act 2003 s 54(2). The renewal of BID arrangements is not to be regarded as approved by a ballot held for the purposes of s 54(2) unless the two conditions in s 50 (see para 222 ante), which apply to the approval of BID proposals, are satisfied in relation to the renewal of the arrangements: s 54(3).
10 Ibid s 54(4). No regulations under s 54(4) are to be made by the Secretary of State unless a draft of the statutory instrument containing the regulations (whether containing them alone or with other provisions) has been laid before, and approved by a resolution of, each House of Parliament: s 54(7). Section 54(7) does not apply in relation to Wales: s 58(1). The provision which may be made by virtue of s 54(4)(a), (b) (see the text and notes 11–12 infra) includes provision preventing or restricting the alteration or early termination of BID arrangements: s 54(5). However, nothing in s 54(5) is to be taken as limiting the power conferred by s 54(4): s 54(6). As to provision for regulations made under the Local Government Act 2003 generally see s 123; and LOCAL GOVERNMENT; and as to provision that may be made specifically by or under Pt 4 (ss 41–59) see para 220 note 11 ante. As to the regulations so made under the power conferred by s 54(4), (5) see the Business Improvement Districts (England) Regulations 2004, SI 2004/2443, regs 16–18; and the Business Improvement Districts (Wales) Regulations 2005, SI 2005/1312, regs 16–18.
11 Local Government Act 2003 s 54(4)(a). See note 10 supra.
12 Ibid s 54(4)(b). See note 10 supra.

(ii) Business Improvement District Levy

A. IN GENERAL

225. BID levy. BID levy[1] is to be imposed in a business improvement district[2] only for periods ('chargeable periods') falling within the period in which BID arrangements[3] are in force in respect of the district[4]. The length of any chargeable period, and the day on which it begins, are to be such as may be specified in the BID arrangements[5]. The amount of BID levy for any chargeable period: (1) is to be calculated in such manner as may be provided in the BID arrangements[6]; and (2) may be different for different cases[7].

BID arrangements must specify the description of non-domestic ratepayers[8] in the business improvement district who are to be liable for BID levy for a chargeable period[9].

A person is to be liable for BID levy for a chargeable period if he falls within that description at any time within the period[10]; and the amount of a person's liability for BID levy for any chargeable period is to be determined in accordance with the BID arrangements[11]. Any amount of BID levy for which a person is liable is to be paid to the billing authority which made the arrangements[12].

The Secretary of State (or the Welsh Ministers, as the case may be)[13] may by regulations[14] make provision with respect to the imposition, administration, collection, recovery and application of BID levy[15].

1 For the meaning of 'BID levy' see para 220 note 7 ante.
2 For the meaning of 'business improvement district' ('BID') see para 220 note 4 ante.
3 For the meaning of 'BID arrangements' see para 220 note 3 ante.
4 Local Government Act 2003 s 45(1).
5 Ibid s 45(2).
6 Ibid s 45(3)(a).
7 Ibid s 45(3)(b).
8 For the meaning of 'non-domestic ratepayer' for these purposes see para 220 note 8 ante.
9 Local Government Act 2003 s 46(1).
10 Ibid s 46(2).
11 Ibid s 46(3).
12 Ibid s 46(4). As to billing authorities for these purposes see para 5 ante.
13 As to the Secretary of State and the Welsh Ministers see para 3 ante.
14 As to provision for regulations made under the Local Government Act 2003 generally see s 123; and LOCAL GOVERNMENT; and as to provision that may be made specifically by or under Pt 4 (ss 41–59) see para 220 note 11 ante. As to the regulations so made under the power conferred by s 48(1), (2) see the Business Improvement Districts (England) Regulations 2004, SI 2004/2443, reg 15, Sch 4; and the Business Improvement Districts (Wales) Regulations 2005, SI 2005/1312, reg 15, Sch 4.
15 Local Government Act 2003 s 48(1). The provision which may be made by regulations under s 48 includes provision:
   (1) corresponding to any provision which may be made by regulations under the Local Government Finance Act 1988 s 50 (joint owners or occupiers of hereditament) (see para 13 ante) or s 63 (liability on death of ratepayer) (see para 175 ante) or s 62, Sch 9 (as amended) (see para 141 et seq ante) (administration of non-domestic rating) (Local Government Act 2003 s 48(2)(a));
   (2) modifying or applying with modifications any provision made by regulations under any of those provisions (s 48(2)(b)).

   However, nothing in s 48(2) is to be taken as limiting the power conferred by s 48(1): s 48(3). See note 14 supra.

B. ADMINISTRATION OF BID LEVY

226. BID revenue account. A billing authority[1] which has made BID arrangements[2] must, in accordance with proper practices, keep an account, to be called the 'BID Revenue Account'[3]. Amounts paid to the authority by way of BID levy[4] must be credited to the BID Revenue Account[5]; and amounts are to be debited to the BID Revenue Account only in accordance with BID arrangements[6].

The Secretary of State (or the Welsh Ministers, as the case may be)[7] may by regulations[8] make further provision in relation to the BID Revenue Account[9].

1 As to billing authorities for these purposes see para 5 ante.
2 For the meaning of 'BID arrangements' see para 220 note 3 ante.
3 Local Government Act 2003 s 47(1).
4 For the meaning of 'BID levy' see para 220 note 7 ante.
5 Local Government Act 2003 s 47(2).
6 Ibid s 47(3).
7 As to the Secretary of State and the Welsh Ministers see para 3 ante.
8 As to provision for regulations made under the Local Government Act 2003 generally see s 123; and LOCAL GOVERNMENT; and as to provision that may be made specifically by or under Pt 4 (ss 41–59) see para 220 note 11 ante. As to the regulations so made under the power conferred by s 47(4) see the

Business Improvement Districts (England) Regulations 2004, SI 2004/2443, reg 14, Sch 3; and the Business Improvement Districts (Wales) Regulations 2005, SI 2005/1312, reg 14, Sch 3.

9 Local Government Act 2003 s 47(4). See note 8 supra.

3. COUNCIL TAX

(1) IN GENERAL

227. Legislative developments leading to the council tax. Until 1 April 1990, local authorities were authorised to raise money from the public by virtue of the general rate[1], whereby the occupier or owner of a hereditament was liable for a charge based upon the value of the hereditament[2].

With effect from 1 April 1990, rating was abolished in relation to domestic property, and a community charge was introduced which was based on the chargepayer rather than the value of the hereditament[3]. The new charge was payable by every person over 18 years of age except those expressly excluded[4].

With effect from 1 April 1993, the community charge was abolished[5] and replaced with the council tax[6]. The law governing council tax is derived from statute and delegated legislation, the principal Act governing the making and levying of council tax being the Local Government Finance Act 1992[7], which introduced a new system of taxation of residential and domestic hereditaments on the model of the non-domestic rating system[8]. The new system imposes liability for council tax[9], and also empowers local authorities to set and levy council tax[10].

1 See the General Rate Act 1967 (repealed with savings). As to the general historical background to the modern law of rating and council tax see para 2 ante.

2 This system of rating survives but only in so far as it applies to non-domestic hereditaments: see the Local Government Finance Act 1988 Pt III (ss 41–67) (as amended); and para 3 et seq ante.

3 See the Local Government Finance Act 1988 Pt I (ss 1–31), Pt II (ss 32–40) (all repealed). The capitation basis of this system of taxation gave rise to the community charge's soubriquet: 'poll tax'.

4 See ibid s 2, Sch 1 (both repealed). Appeals in relation to the contents of the register were made to a valuation and community charge tribunal: see ss 23, 24 (both repealed). See now the valuation tribunals; and paras 147 et seq ante (in relation to valuation tribunals generally), 352 et seq post (in relation to council tax specifically).

5 See the Local Government Finance Act 1992 ss 100, 117, Sch 13 (as amended), Sch 14; and as to saving provisions enabling the collection of outstanding amounts of community charge see s 118.

6 As to the council tax see para 228 et seq post.

7 As to the citation, commencement and extent of the Local Government Finance Act 1992 see s 119. Nothing in any private or local Act (whenever passed) in any way affects the operation of the 1992 Act or of anything done under it: s 116(2).

8 As to the non-domestic rating system see the text and notes 1–2 supra. With some aspects of rating law having been carried through into the new legislation, much of the case law decided under the earlier rating legislation continues to be relevant to matters of construction and practice developed in the courts and to the understanding of underlying principles: see para 2 ante.

9 See para 231 et seq post.

10 See para 229 post.

228. The Secretary of State and the Welsh Ministers. The council tax legislation confers the functions of central government in relation to the council tax system upon the 'Secretary of State' without reference to a particular department or ministry[1], but in practice the Secretary of State for Communities and Local Government has responsibility for council tax[2]. Many statutory functions vested in a Secretary of State or a Minister of the Crown are transferred so as to be exercisable in relation to Wales[3] by the Welsh Ministers[4]. For the purposes of this title, the functions so transferred[5] include, with minor exceptions[6] and qualifications[7], almost all functions under the Local Government Finance Act 1992[8]. One other function which is exercisable by a Minister of the Crown is exercisable subject to constraint[9].

Any power of the Secretary of State, the Treasury or the Welsh Ministers under the Local Government Finance Act 1992 to make orders or regulations[10] may be so

exercised as to make different provision for different cases or descriptions of case, including different provision for different areas or for different authorities[11]. Any such power to make orders or regulations includes power to make such incidental, consequential, transitional or supplementary provision as he, they or it thinks necessary or expedient[12]. Any such power of the Secretary of State or of the Treasury to make orders or regulations is exercisable by statutory instrument, which subject to certain exceptions[13], is subject to annulment in pursuance of a resolution of either House of Parliament[14]. Any power of the Welsh Ministers under the Local Government Finance Act 1992 to make orders or regulations is exercisable by statutory instrument[15].

The Secretary of State (or the Welsh Ministers, as the case may be) has the power to designate or nominate an authority if he considers that the amount calculated by the authority as its annual budgetary requirement is excessive or represents an excessive increase over the preceding financial year[16].

The Secretary of State (or the Welsh Ministers, as the case may be) may at any time by order make such supplementary, incidental, consequential or transitional provision as appears to him (or them) to be necessary or expedient for the general purposes or any particular purposes of the Local Government Finance Act 1992 or in consequence of any of its provisions or for giving full effect to it[17]. Any such provision is in addition and without prejudice to any other provision of the Local Government Finance Act 1992[18]; and no other provision of that Act is to be construed as prejudicing the generality of these powers[19].

The Secretary of State (or the Welsh Ministers, as the case may be) may also issue Practice Notes in relation to the council tax system[20].

In circumstances where:

(1) the Secretary of State (or the Welsh Ministers, as the case may be) serves a notice on a relevant authority[21] or relevant officer[22] requiring it or him to supply to the Secretary of State (or the Welsh Ministers, as the case may be) information[23] specified in the notice[24];

(2) the information is required by the Secretary of State (or the Welsh Ministers, as the case may be) for the purpose of deciding whether to exercise his powers (and how to perform his functions) under Part I of the Local Government Finance Act 1992[25] or under Part III of the Greater London Authority Act 1999[26]; and

(3) the information is not personal information[27],

the authority or officer must supply the information required, and must do so in such form and manner and at such time as the Secretary of State (or the Welsh Ministers, as the case may be) specifies in the notice[28]. If an authority or officer fails so to comply, the Secretary of State (or the Welsh Ministers, as the case may be) may assume the information required to be such as he sees fit; and in such a case the Secretary of State (or the Welsh Ministers, as the case may be) may decide in accordance with the assumption whether to exercise his powers (and how to perform his functions) under Part I of the Local Government Finance Act 1992 or under Part III of the Greater London Authority Act 1999[29]. In so deciding whether to exercise his powers (and how to perform his functions) the Secretary of State (or the Welsh Ministers, as the case may be) may also take into account any other information available to him, whatever its source and whether or not obtained under a provision contained in or made under Part I of the Local Government Finance Act 1992 or any other enactment[30].

There is to be paid out of money provided by Parliament:

(a) any sums required to enable valuations to be carried out in accordance with Part I or Part II[31] of the Local Government Finance Act 1992[32];

(b) any expenses of the Secretary of State (or of the Welsh Ministers, as the case may be) incurred in consequence of the 1992 Act[33]; and

(c) any increase attributable to the 1992 Act in the sums payable out of money so provided under any other enactment[34].

There is to be paid into the Consolidated Fund[35] any sums received by the Secretary of State (or by the Welsh Ministers, as the case may be) in consequence of the 1992 Act[36] and any increase attributable to the 1992 Act in the sums payable into that Fund under any other enactment[37].

In relation to council tax benefit[38], the relevant Secretary of State is the Secretary of State for Work and Pensions[39].

1 In any enactment, 'Secretary of State' means one of Her Majesty's principal Secretaries of State: see the Interpretation Act 1978 s 5, Sch 1. The office of Secretary of State is a unified office, and in law each Secretary of State is capable of performing the functions of all or any of them: see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) para 355. Accordingly, despite the fact that older statutes refer to ministers, to specific ministers or to government departments, in law the office of Secretary of State is one and accordingly many modern statutes refer simply to the 'Secretary of State' without reference to a particular department or ministry.

2 However, council tax benefit (as to which see para 371 et seq post) is part of the portfolio of the Secretary of State for Work and Pensions: see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) para 502 et seq. As to the Secretary of State in relation to non-domestic rating see para 3 ante.

3 For the meaning of 'Wales' see para 1 note 2 ante.

4 These functions were previously transferred to the National Assembly for Wales by Order in Council under the Government of Wales Act 1998 s 22 (see the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, arts 2, 3, Sch 1) or, in the case of functions conferred under enactments subsequent to the Government of Wales Act 1998, by virtue of particular provision made under those enactments: see the Government of Wales Act 2006 s 162(1), Sch 11 para 30; and CONSTITUTIONAL LAW AND HUMAN RIGHTS. Further transfers of ministerial functions to the Welsh Ministers may be effected by Order in Council pursuant to s 58, Sch 3 paras 1–8. As to the exercise of transferred functions and the bringing of subordinate legislation made by the Welsh Ministers before the National Assembly for Wales see Sch 11 paras 33–35 (in the case of functions transferred to the Assembly by Order in Council under the Government of Wales Act 1998 s 22) or the Government of Wales Act 2006 Sch 3 para 9 (in the case of functions transferred to the Welsh Ministers by Order in Council under s 58); and CONSTITUTIONAL LAW AND HUMAN RIGHTS. As to the National Assembly for Wales see CONSTITUTIONAL LAW AND HUMAN RIGHTS. In general, Acts that have come into force since the establishment of the National Assembly for Wales have made specific provision for the exercise of functions in relation to Wales.

5 Ie by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, Sch 1 (as amended).

6 Ie except the power of the Secretary of State to include certain matters in a social security instrument under the Local Government Finance Act 1992 s 13(9) (see para 257 post) or to make provision for enforcing liability orders where the debtor is entitled to income support (see s 14(3), Sch 4 para 6 (as amended; prospectively further amended); and para 333 post) and except the Treasury power to vary certain penalties under ss 14(2), 97(4), Sch 3 para 5(1) (see para 308 post): see the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, Sch 1 (as amended). As to the Treasury see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) paras 512–517.

7 The power of the Secretary of State to make regulations under the Local Government Finance Act 1992 s 1(3) (see para 231 post) is transferred to the Welsh Ministers except as regards a dwelling part only of which falls within the area of a Welsh billing authority: see the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, Sch 1 (as amended). The functions of the Secretary of State under the Local Government Finance Act 1992 ss 14(1), 97(3), Sch 2 paras 14, 15 (power to make regulations regarding supply of information) (see para 279 post) are exercisable by the Welsh Ministers concurrently with the Secretary of State: see the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, Sch 1 (as amended). Any reference to the approval of a report by the House of Commons is to be construed as a reference to the publication of the report by the National Assembly for Wales: see the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, Sch 1 (as amended).

8 See ibid Sch 1 (as amended).

9 The function of the Secretary of State under the Local Government Finance Act 1992 s 1(3) (see para 231 post) is, as regards a dwelling part only of which falls within the area of a Welsh billing authority, exercisable only with the agreement of the Welsh Ministers: see the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 5, Sch 2 (as amended).

10 Ie other than the power to make orders under the Local Government Finance Act 1992 s 52X(6) (as added) (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 528): see s 113(1) (as amended: see note 11 infra).

11 Ibid s 113(1) (amended by the Local Government Act 1999 s 30, Sch 1 Pt II paras 2, 9(a); and the Local Government Act 2003 s 127(1), Sch 7 paras 40, 52(1), (2)).

12 Local Government Finance Act 1992 s 113(2) (amended by the Local Government Act 2003 Sch 7 paras 40, 52(1)–(3)).

13 Ie except in the case of orders under the Local Government Finance Act 1992 s 5(4) (valuation bands) (see para 244 post), s 11(3) (as amended) (discounts) (see para 245 post), s 22B(1A) (as added) (new lists) (see para 271 post), s 52F(4) (as added) (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 528), s 52H(2) (as added) (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 528), s 52Q(2) (as added) (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 528), s 52S(2) (as added) (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 528), s 52X(6) (as added), s 74(3) (Scotland), s 79(3) (Scotland), s 108, Sch 12 para 1 (Scotland) or s 119(2) (commencement) (see para 227 ante): see s 113(3) (as amended: see note 14 infra).

14 Ibid s 113(3) (amended by the Local Government Act 1999 Sch 1 Pt II paras 2, 9(b); the Local Government Act 2003 Sch 7 paras 40, 52(1), (4); and the Council Tax (New Valuation Lists for England) Act 2006 s 1(6)).

15 Local Government Finance Act 1992 s 113(4) (added by the Local Government Act 2003 Sch 7 paras 40, 52(1), (5)).

16 See the Local Government Finance Act 1992 Pt I Ch IVA (ss 52A–52Z) (as added and amended); and LOCAL GOVERNMENT vol 29(1) (Reissue) paras 528, 529.

17 Ibid s 114(1). An order under s 114 may in particular make provision for amending, repealing or revoking (with or without savings) any provision of an Act passed before or in the same session as the Local Government Finance Act 1992, or of an instrument made under an Act before the passing of the Local Government Finance Act 1992, and for making savings or additional savings from the effect of any amendment or repeal made by the Local Government Finance Act 1992: s 114(2). For these purposes, 'Act' includes a private or local Act: see s 114(5).

18 See ibid s 114(3).

19 See ibid s 114(4).

20 At the date at which this volume states the law, nine Practice Notes are current, of which two (Practice Note 1 (Definition of Dwelling and Basis of Valuation for Council Tax) and Practice Note 3 (The Size, Layout and Character of the Dwelling and the physical state of the Locality: Dates at which they are to be considered)) exist in two versions: one relating to England only; and the other relating to the Wales 2005 list only. For the meaning of 'England' see para 1 note 2 ante.

21 For these purposes, 'relevant authority' means a billing authority or a precepting authority or a functional body within the meaning of the Greater London Authority Act 1999 (see LONDON GOVERNMENT vol 29(2) (Reissue) para 213 et seq): Local Government Finance Act 1992 s 68(5) (definition amended by the Greater London Authority Act 1999 s 109(3), (6)). 'Precepting authority' means a major precepting authority or a local precepting authority: Local Government Finance Act 1992 s 69(1). For these purposes, 'local precepting authority' has the meaning given by s 39(2) (see para 1 note 3 ante); and 'major precepting authority' has the meaning given by s 39(1) (as amended) (see para 1 note 2 ante): s 69(1). As to billing authorities for these purposes see para 229 post.

22 For these purposes, 'relevant officer' means a proper officer within the meaning of the Local Government Act 1972 (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 336) of a relevant authority: see the Local Government Finance Act 1992 s 68(5).

23 For these purposes, 'information' includes accounts, estimates and returns: ibid s 116(1).

24 Ibid s 68(1)(a).

25 Ie under ibid Pt I (ss 1–69) (as amended) (see para 232 et seq post): see s 68(1)(b) (as amended: see note 26 infra).

26 Ibid s 68(1)(b) (amended by the Greater London Authority Act 1999 s 109(3), (4)). The text refers to the exercise of powers and the performance of functions under the Greater London Authority Act 1999 Pt III (ss 81–140) (as amended) (financial provisions) (see LONDON GOVERNMENT vol 29(2) (Reissue) para 232 et seq): see the Local Government Finance Act 1992 s 68(1)(b) (as so amended). For provision as to council tax in Greater London generally see the Greater London Authority Act 1999 ss 81–99 (as amended); and LONDON GOVERNMENT vol 29(2) (Reissue) para 233 et seq.

27 Local Government Finance Act 1992 s 68(1)(c). For these purposes, personal information:

(1) is information which relates to an individual (living or dead) who can be identified from that information or from that and other information supplied to any person by the authority or officer concerned (s 68(6)(a)); and

(2) includes any expression of opinion about the individual and any indication of the intentions of any person in respect of the individual (s 68(6)(b)).

28 Ibid s 68(2).

29 Ibid s 68(3) (amended by the Greater London Authority Act 1999 s 109(3), (5)).
30 Local Government Finance Act 1992 s 68(4).
31 Ie ibid Pt II (ss 70–99) (as amended) (Scotland): see s 115(1)(a).
32 Ibid s 115(1)(a).
33 Ibid s 115(1)(b).
34 Ibid s 115(1)(c).
35 Ibid s 115(2). As to the Consolidated Fund see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) para 711 et seq; PARLIAMENT vol 34 (Reissue) para 952 et seq.
36 Ibid s 115(2)(a).
37 Ibid s 115(2)(b).
38 As to council tax benefit see para 371 et seq post.
39 See CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) para 502 et seq; SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) para 1.

229. Billing authorities. In relation to England[1], a district council[2] or London borough council[3], the Common Council of the City of London[4] or the Council of the Isles of Scilly and, in relation to Wales[5], a county council or county borough council[6] are billing authorities[7] charged with the power to levy and collect the council tax[8] which is payable in respect of dwellings situated in its area[9].

Certain functions of an authority must be discharged only by the authority[10] but the functions of a billing authority in relation to the administration and enforcement of council tax may, to the prescribed extent, be exercised by, or by the employees of, such person as may be authorised to exercise them by the authority whose functions they are[11].

1 For the meaning of 'England' see para 1 note 2 ante.
2 As to local government areas and authorities in England and their councils generally see LOCAL GOVERNMENT vol 29(1) (Reissue) para 25 et seq.
3 As to London boroughs and their councils see LOCAL GOVERNMENT vol 29(1) (Reissue) para 24 et seq; and LONDON GOVERNMENT vol 29(2) (Reissue) para 30 et seq.
4 For these purposes, the Inner Temple and the Middle Temple are to be taken to fall within the area of the Common Council of the City of London: see the Local Government Finance Act 1992 s 69(1), (3). As to the Court of Common Council see LONDON GOVERNMENT vol 29(2) (Reissue) para 51 et seq; and as to the Temples see LONDON GOVERNMENT vol 29(2) (Reissue) para 32 et seq.
5 For the meaning of 'Wales' see para 1 note 2 ante.
6 See para 1 note 4 ante. As to local government areas and authorities in Wales and their councils generally see LOCAL GOVERNMENT vol 29(1) (Reissue) para 41 et seq.
7 Local Government Finance Act 1992 ss 1(2), 69(1) (s 1(2) substituted by the Local Government (Wales) Act 1994 s 35(5)).
8 As to the administration of council tax see para 279 et seq post.
9 See the Local Government Finance Act 1992 s 1(1); and para 231 et seq post. As to billing authorities for the purposes of non-domestic rating see para 5 ante.
10 See ibid s 67(1) (as amended); and LOCAL GOVERNMENT vol 29(1) (Reissue) para 524.
11 See the Local Authorities (Contracting Out of Tax Billing, Collection and Enforcement Functions) Order 1996, SI 1996/1880, art 3.

230. Role of the Commissioners for Revenue and Customs and listing officers. The Commissioners for Revenue and Customs[1] must appoint a listing officer for each billing authority[2]. The remuneration of, and any expenses incurred by, listing officers in carrying out their functions[3] (including the remuneration and expenses of persons, whether or not in the service of the Crown, to assist them) must be paid out of money provided by Parliament[4].

The functions of the Commissioners for Revenue and Customs in relation to council tax include the duty to value dwellings in England and Wales[5] and to furnish listing officers with certain information[6]. A listing officer or any other officer of the Commissioners (a 'valuation officer') may also enter on, survey and value a hereditament on giving at least three days' clear notice of the proposed entry[7]; and the listing officers and the Commissioners each have the power to request certain information relating to

property, being information which the listing officer or the Commissioners reasonably believe will assist him or them in carrying out any of his or their functions[8].

A person may require a listing officer to provide access to specified information thus collated upon request[9].

1 As to the Commissioners for Revenue and Customs see CUSTOMS AND EXCISE vol 12(3) (2007 Reissue) para 900 et seq.
2 Local Government Finance Act 1992 ss 20(1), 69(1). As to billing authorities see para 229 ante.
3 Any reference in ibid Pt I Ch II (ss 20–29) (as amended) (see paras 268–278 post) to a listing officer's or the Commissioners' functions is a reference to the functions imposed or conferred on him or them by or under Ch II (as amended): s 20(3).
4 Ibid s 20(2).
5 For the meanings of 'England' and 'Wales' see para 1 note 2 ante.
6 See the Local Government Finance Act 1992 s 21 (as amended); and para 268 post.
7 See ibid s 26; and para 275 post. As to valuation officers for these purposes see para 275 note 1 post. Cf the powers of a valuation officer for non-domestic rating purposes: see para 6 ante.
8 See ibid s 27 (prospectively amended); and para 276 post.
9 See ibid s 28 (as amended); and para 277 post.

(2) LIABILITY TO COUNCIL TAX

(i) In general

231. Council tax in respect of dwellings. As regards the financial year[1], each billing authority[2] must, in accordance with the council tax provisions which have effect in relation to England and Wales[3], levy and collect a tax ('council tax'), which is payable in respect of dwellings[4] situated in its area[5]. For these purposes, the Secretary of State (or the Welsh Ministers, as the case may be)[6] may make regulations[7] containing rules for treating a dwelling as situated in a billing authority's area if part only of the dwelling falls within the area[8].

Liability to pay council tax is determined on a daily basis[9]. For the purposes of determining for any day:

(1) whether any property is a chargeable dwelling[10];
(2) which valuation band[11] is shown in the billing authority's valuation list[12] as applicable to any chargeable dwelling[13];
(3) the person liable to pay council tax in respect of any such dwelling[14]; or
(4) whether any amount of council tax is subject to a discount and (if so) the amount of the discount[15],

it is to be assumed that any state of affairs subsisting at the end of the day had subsisted throughout the day[16].

1 Ie the financial year beginning in 1993 and subsequent financial years: see the Local Government Finance Act 1992 s 1(1). For these purposes, 'financial year' means any period of 12 months beginning with 1 April (s 116(1)), although in Pt I (ss 1–69) (as amended) (see paras 228 et seq ante, 232 et seq post), 'financial year', except in references to earlier or preceding financial years, does not include the financial year beginning in 1992 or earlier financial years: s 69(1).
2 As to billing authorities see para 229 ante.
3 Ie in accordance with the Local Government Finance Act 1992 Pt I (as amended) (see paras 228 et seq ante, 232 et seq post): see s 1(1). For the meanings of 'England' and 'Wales' see para 1 note 2 ante.
4 For the meaning of 'dwelling' see para 232 post.
5 Local Government Finance Act 1992 s 1(1).
6 As to the Secretary of State and the Welsh Ministers see para 228 ante. See also note 8 infra.
7 As to the making of regulations under the Local Government Finance Act 1992 see para 228 ante; and see note 8 infra.
8 Local Government Finance Act 1992 s 1(3). The function of the Secretary of State under s 1(3) is, as regards a dwelling part only of which falls within the area of a Welsh billing authority, exercisable only with the agreement of the Welsh Ministers (see the National Assembly for Wales (Transfer of Functions)

Order 1999, SI 1999/672, art 5, Sch 2 (as amended); and para 228 ante); and the power of the Secretary of State to make regulations under the Local Government Finance Act 1992 s 1(3) is transferred to the Welsh Ministers except as regards a dwelling part only of which falls within the area of a Welsh billing authority (see the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 3, Sch 1 (as amended); and para 228 ante).

As to the regulations so made in exercise of the powers conferred by the Local Government Finance Act 1992 s 1(3) (amongst other provisions: see also para 243 post) see the Council Tax (Situation and Valuation of Dwellings) Regulations 1992, SI 1992/550, Pt II (regs 2–5) (amended by SI 1994/1747).

9 Local Government Finance Act 1992 s 2(1).

10 Ibid s 2(2)(a). For the meaning of 'chargeable dwelling' see para 233 post.

11 As to valuation bands see para 244 post.

12 The listing officer for a billing authority must compile, and then maintain, a list for the authority (to be called its valuation list): see the Local Government Finance Act 1992 s 22(1); and para 269 post. As to listing officers see para 230 ante; and as to valuation lists see para 268 et seq post.

13 Local Government Finance Act 1992 s 2(2)(b). For these purposes, any reference to dwellings listed in a particular valuation band is to be construed in accordance with s 5(6) (see para 244 post): s 69(2)(a).

14 Ibid s 2(2)(c). As to the persons liable see para 237 et seq post.

15 Ibid s 2(2)(d). As to discounts see para 245 et seq post.

16 Ibid s 2(2).

(ii) Chargeable Dwellings

232. Meaning of 'dwelling'. For the purposes of the council tax provisions which have effect in relation to England and Wales[1], provision is made for determining what is a dwelling[2]. Accordingly, a dwelling is any property which[3]:

(1) would have been a hereditament for the purposes of the General Rate Act 1967 (now repealed)[4] if that Act remained in force[5]; and

(2) is not for the time being shown or required to be shown in a local or a central non-domestic rating list in force at that time[6]; and

(3) is not for the time being exempt from local non-domestic rating[7].

In applying heads (2) and (3) above, no account is to be taken of any rules as to Crown exemption[8].

A hereditament which: (a) is a composite hereditament for the purposes of Part III of the Local Government Finance Act 1988[9]; and (b) would still be such a hereditament if certain provisions relating to the definition of domestic property for those purposes[10] were omitted[11], is also a dwelling for the purposes of Part 1 of the Local Government Finance Act 1992[12].

None of the following property, namely:

(i) a yard, garden, outhouse or other appurtenance belonging to or enjoyed with property used wholly for the purposes of living accommodation[13]; or

(ii) a private garage which either has a floor area of not more than 25 square metres or is used wholly or mainly for the accommodation of a private motor vehicle[14]; or

(iii) private storage premises used wholly or mainly for the storage of articles of domestic use[15],

is a dwelling except in so far as it forms part of a larger property which is itself a dwelling by virtue of heads (1) to (3) above[16].

The Secretary of State (or the Welsh Ministers, as the case may be)[17] may by order[18] provide that in such cases as may be prescribed by or determined under the order[19]:

(A) anything which would (apart from the order) be one dwelling is to be treated as two or more dwellings[20]; and

(B) anything which would (apart from the order) be two or more dwellings is to be treated as one dwelling[21].

The Secretary of State (or the Welsh Ministers, as the case may be) may by order amend any definition of 'dwelling' which is for the time being effective for the purposes of Part 1 of the Local Government Finance Act 1992[22].

1 Ie for the purposes of the Local Government Finance Act 1992 Pt I (ss 1–69) (as amended) (see paras 228 et seq ante, 233 et seq post): see s 3(1). For the meanings of 'England' and 'Wales' see para 1 note 2 ante.

2 Ibid s 3(1).

3 Ibid s 3(1), (2). The provision set out in s 3(2) is subject to s 3(3)–(6) (see the text and notes 9–22 infra): see s 3(2). In Pt I (as amended) (see paras 228 et seq ante, 233 et seq post) 'dwelling' has the meaning given by s 3: see s 69(1).

There is no need to imply that s 3(2) only applies to houses as the provision provides a satisfactory and working definition of 'dwelling' without that implication being made: see *Lewis v Christchurch Borough Council* [1996] RA 229 (beach huts held to be dwellings under the Local Government Finance Act 1992 s 3(2)).

4 Ie by virtue of the definition of 'hereditament' in the General Rate Act 1967 s 115(1) (repealed) (see para 33 ante): see the Local Government Finance Act 1992 s 3(1), (2)(a). For the purposes of the General Rate Act 1967, 'hereditament' was defined as property which is or may become liable to a rate, being a unit of such property which is, or would fall to be, shown as a separate item in the valuation list: see s 115(1) (repealed). As to rateable hereditaments under the Local Government Finance Act 1988 (the Act which repealed and replaced the General Rate Act 1967 and uses the same definition of 'hereditament' for its own purposes) see para 7 et seq ante. As to valuation lists see para 268 et seq post.

5 Local Government Finance Act 1992 s 3(1), (2)(a).

6 Ibid s 3(1), (2)(b). See *Stubbs v Hartnell (Listing Officer)* [1997] EWCA Civ 1817, [2002] RVR 90 (appellant's plot of land and mooring, together with his houseboat moored to it, was properly regarded as a hereditament for the purposes of the charge to council tax). As to local non-domestic rating lists see para 121 et seq ante; and as to central non-domestic rating lists see para 125 et seq ante.

7 Local Government Finance Act 1992 s 3(1), (2)(c). The text refers to exemption from local non-domestic rating for the purposes of the Local Government Finance Act 1988 Pt III (ss 41–67) (as amended): see the Local Government Finance Act 1992 s 3(1), (2)(c). As to exemptions from non-domestic rating see para 37 et seq ante.

8 Ibid s 3(1), (2). As to Crown exemption from non-domestic rating see para 38 ante; and as to Crown exemption from council tax see para 242 post.

9 Ibid s 3(1), (3)(a). The text refers to the purposes of the Local Government Finance Act 1988 Pt III (as amended): see the Local Government Finance Act 1992 s 3(1), (3)(a). As to what constitutes a composite hereditament for those purposes see para 33 note 6 ante.

A property is a composite hereditament for the purposes of council tax if at least one room is used exclusively for the purposes of a dwelling: see *Williams v Bristol District Valuation Officer* [1995] RA 189 (maisonette above a shop is a dwelling even if access is only through the shop). Similarly, a house may be a composite hereditament if one or more rooms are used mainly for the conduct of a business: see *Fotheringham v Wood (Valuation Officer)* [1995] RA 315, Lands Tribunal (rates liability arose where one room used mainly for business, another partly so); cf *Tully v Jorgensen (Valuation Officer)* [2003] RA 233, Lands Tribunal (rates liability did not arise in this case where a room was used to carry out employment-related office work because the use remained for the purposes of ordinary domestic living accommodation); and see para 120 ante (definition of 'domestic property' for non-domestic rating purposes).

10 Ie the provisions contained in the Local Government Finance Act 1988 s 66(1)(b)–(d) (as amended) (see para 120 ante): see the Local Government Finance Act 1992 s 3(1), (3)(b).

11 Ibid s 3(1), (3)(b).

Where part of a property is wholly or mainly used in the course of business for short-stay accommodation, that part may fall to be rated as a non-domestic hereditament: see para 120 ante. See also *Skott v Pepperell (Valuation Officer)* [1995] RA 243, Lands Tribunal.

12 Local Government Finance Act 1992 s 3(1), (3). The provision set out in s 3(3) is subject to s 3(6) (see the text and note 22 infra): see s 3(3).

13 Ibid s 3(1), (4)(a).

14 Ibid s 3(1), (4)(b).

15 Ibid s 3(1), (4)(c).

16 Ibid s 3(1), (4). The provision set out in s 3(4) is subject to s 3(6) (see the text and note 22 infra): see s 3(4).

17 As to the Secretary of State and the Welsh Ministers see para 228 ante. See also notes 20, 21 infra.

18 As to the making of orders under the Local Government Finance Act 1992 see para 228 ante; and see notes 21, 22 infra.

19 Local Government Finance Act 1992 s 3(1), (5).

20 Ibid s 3(1), (5)(a).

In exercise of the power conferred by s 3(1), (5)(a), the Council Tax (Chargeable Dwellings) Order 1992, SI 1992/549 (as amended) has been made. Accordingly, where a single property contains more than one self-contained unit, for the purposes of the Local Government Finance Act 1992 Pt I (as amended) (see paras 228 et seq ante, 233 et seq post), the property is to be treated as comprising as many dwellings as there are such units included in it and each such unit is to be treated as a dwelling: Council Tax (Chargeable Dwellings) Order 1992, SI 1992/549, art 3 (amended in relation to England by SI 2003/3121; and in relation to Wales by SI 2004/2921). A care home is to be treated as comprising the number of dwellings found by adding one to the number of self-contained units occupied by (or, if currently unoccupied, provided for the purpose of accommodating) the person registered in respect of it in accordance with the Care Standards Act 2000 Pt II (ss 11–42) (as amended) (see SOCIAL SERVICES AND COMMUNITY CARE vol 44(2) (Reissue) para 1042), and each such unit is to be treated as a dwelling: Council Tax (Chargeable Dwellings) Order 1992, SI 1992/549, art 3A (added in relation to England by SI 2003/3121; and in relation to Wales by SI 2004/2921). For these purposes, 'care home' means a care home within the meaning of the Care Standards Act 2000 (see SOCIAL SERVICES AND COMMUNITY CARE vol 44(2) (Reissue) para 1042), in respect of which a person is registered in accordance with Part II (as amended): Council Tax (Chargeable Dwellings) Order 1992, SI 1992/549, art 2 (definition added in relation to England by SI 2003/3121; and in relation to Wales by SI 2004/2921). 'Self-contained unit' means a building or a part of a building which has been constructed or adapted for use as separate living accommodation: Council Tax (Chargeable Dwellings) Order 1992, SI 1992/549, art 2 (definition substituted by SI 1997/656). 'Single property' means property which would, apart from the Council Tax (Chargeable Dwellings) Order 1992, SI 1992/549 (as amended), be one dwelling within the meaning of the Local Government Finance Act 1992 s 3: Council Tax (Chargeable Dwellings) Order 1992, SI 1992/549, art 2.

A flat and a house within a single property are treated as two self-contained units for the purposes of the Council Tax (Chargeable Dwellings) Order 1992, SI 1992/549 (as amended) where both have the usual features of separate accommodation, such as bathing and cooking facilities, and are not affected by the fact that one is accessed through the other: *McColl v Sabacchi (Listing Officer)* [2001] EWHC Admin 712, [2001] RA 342, [2001] All ER (D) 04 (Sep). To determine whether part of a building is a self-contained unit for the purposes of the Council Tax (Chargeable Dwellings) Order 1992, SI 1992/549, art 3 (as amended) see *Williams (Listing Officer) v Royal National Institute for the Blind* [2003] EWHC 1308 (Admin), [2003] RA 158, [2003] All ER (D) 249 (May) (the question as to whether a building or part of a building has been constructed or adapted for use as separate living accommodation, is to be answered in the light of all the objective circumstances, including the use for which the rest of the building had been built). The judgment in *Williams (Listing Officer) v Royal National Institute for the Blind* supra considered factors identified in previous judgments, including those factors which should not be taken into account at all, such as the use to which a part of a building is actually put (*Batty v Burfoot* [1995] RA 299, [1995] 2 EGLR 142; *Beaseley v National Council of the YMCA* [2000] RA 429) or the impracticability of the sale of part of a building (*Batty v Burfoot* supra) or the subjective intention of the builder or developer (*Coleman (Listing Officer) v Rotzstein* [2003] EWHC 1057 (Admin), [2003] RA 152, [2003] All ER (D) 371 (Apr)) and those factors which should not be treated as of decisive effect, such as the terms of the grant of planning permission (*Batty v Burfoot* supra) or the absence of a bath or shower within the unit (*Clement (Listing Officer) v Bryant* [2003] EWHC 422 (Admin), [2003] RA 133, [2003] All ER (D) 216 (Feb)); cf *Jorgensen (Listing Officer) v Gomperts* [2006] EWHC 1885 (Admin), [2006] RA 300, [2006] All ER (D) 01 (Jul) (having regard to case law, the correct test to be applied was an objective 'bricks and mortar' test which looked at the reality of what had been constructed and/or how it had been adapted; the intention and use, whether actual or prospective, are irrelevant to the determination). See also *Daniels (Listing Officer) v Aristides* [2006] EWHC 3052 (Admin), [2006] RVR 379 (house and a studio in the garden of the house had to be listed separately for council tax purposes; intention of developer and actual use both irrelevant).

Planning conditions restricting or regulating use of the property are not necessarily relevant to the issue of actual self-containment of units, nor is it relevant to assess the degree of communal living or the fact that a part of the dwelling might be sold as a separate unit: see *Rodd v Ritchings* [1995] RA 299, 159 LG Rev 829.

As to exceptions from the general rule that each unit is a separate dwelling see paras 234–235 post.

21 Local Government Finance Act 1992 s 3(1), (5)(b).

In exercise of the power conferred by s 3(1), (5)(b), the Council Tax (Chargeable Dwellings) Order 1992, SI 1992/549 (as amended) has been made. Accordingly, where a multiple property:

(1) consists of a single self-contained unit, or such a unit together with or containing premises constructed or adapted for non-domestic purposes (art 4(1)(a)); and

(2) is occupied as more than one unit of separate living accommodation (art 4(1)(b)),

the listing officer may, if he thinks fit, treat the property as one dwelling (art 4(1)). In so exercising his discretion, the listing officer must have regard to all the circumstances of the case, including the extent, if any, to which the parts of the property separately occupied have been structurally altered: art 4(2). For these purposes, 'multiple property' means property which would, apart from the Council Tax (Chargeable Dwellings) Order 1992, SI 1992/549 (as amended), be two or more dwellings within the meaning of the Local Government Finance Act 1992 s 3: Council Tax (Chargeable Dwellings) Order 1992, SI 1992/549, art 2. As to listing officers see para 230 ante.

Where a property consisting of two or more flats is converted into a single property, a new dwelling is created for council tax purposes: see *R v East Sussex Valuation Tribunal, ex p Silverstone* [1996] RVR 203n.

22 Local Government Finance Act 1992 s 3(6). At the date at which this volume states the law no such order had been made.

233. Dwellings chargeable to council tax. Council tax[1] is payable in respect of any dwelling[2] which is not an exempt dwelling[3]. For the purposes of the main council tax provisions which have effect in relation to England and Wales[4], any dwelling in respect of which council tax is payable is a 'chargeable dwelling'[5].

1 As to council tax see para 227 et seq ante.
2 For the meaning of 'dwelling' see para 232 ante.
3 Local Government Finance Act 1992 s 4(1). As to exempt dwellings see paras 234–235 post.
4 Ie for the purposes of ibid Pt I Ch I (ss 1–19) (as amended) (see paras 228 et seq ante, 234 et seq post): see s 4(2). For the meanings of 'England' and 'Wales' see para 1 note 2 ante.
5 Ibid s 4(2). A floating home without means of propulsion, although not constituting real property, may be a chargeable dwelling for council tax purposes: see *Nicholls v Wimbledon Valuation Office Agency* [1995] RVR 171.

234. Power to exempt dwellings. For the purposes of the main council tax provisions which have effect in relation to England and Wales[1], an 'exempt dwelling' is any dwelling[2] of a class prescribed by an order made by the Secretary of State (or by the Welsh Ministers, as the case may be)[3]. For these purposes, a class of dwellings may be prescribed by reference to such factors as the Secretary of State (or the Welsh Ministers, as the case may be) sees fit[4]. In particular, a class of dwellings may be prescribed by reference to one or more of the following factors[5], namely:

(1) the physical characteristics of dwellings[6];
(2) the fact that dwellings are unoccupied or are occupied for prescribed purposes or are occupied or owned by persons of prescribed descriptions[7].

1 Ie for the purposes of the Local Government Finance Act 1992 Pt I Ch I (ss 1–19) (as amended) (see paras 228 et seq ante, 235 et seq post): see s 4(2). For the meanings of 'England' and 'Wales' see para 1 note 2 ante.
2 For the meaning of 'dwelling' see para 232 ante.
3 Local Government Finance Act 1992 s 4(2). As to the Secretary of State and the Welsh Ministers, and as to the making of orders under the Local Government Finance Act 1992, see para 228 ante. In exercise of the power so conferred, the Council Tax (Exempt Dwellings) Order 1992, SI 1992/558 (as amended) has been made (see para 235 post). The specification of a class of exempt dwelling in an order of the Secretary of State (or of the Welsh Ministers, as the case may be) under the Local Government Finance Act 1992 s 4(2) may not be questioned except by an application for judicial review: s 66(1), (2)(a). As to the procedure for judicial review see ADMINISTRATIVE LAW vol 1(1) (2001 Reissue) paras 69 et seq, 159 et seq.
4 Ibid s 4(3). See note 3 supra.
5 Ibid s 4(4). See note 3 supra.
6 Ibid s 4(4)(a). See note 3 supra.
7 Ibid s 4(4)(b). See note 3 supra.

235. Prescribed classes of exempt dwellings. For the purposes of determining whether or not council tax is payable[1], a dwelling[2] is an exempt dwelling[3] on a particular day if on that day it falls within one of the following classes[4], namely:

(1) Class A: a dwelling which is vacant[5] and:

(a) requires or is undergoing major repair work[6] to render it habitable[7]; or
(b) is undergoing structural alteration[8]; or
(c) has undergone major repair work to render it habitable (if less than six months have elapsed since the date on which the work was substantially completed and the dwelling has continuously remained vacant since that date)[9]; or
(d) has undergone structural alteration (if less than six months have elapsed since the date on which the alteration was substantially completed and the dwelling has continuously remained vacant since that date)[10],

but which has not been such a dwelling for a continuous period of twelve months or more ending immediately before the day in question[11];

(2) Class B: a dwelling owned by a body established for charitable purposes only, which is unoccupied[12] and has been so for a period of less than six months and was last occupied in furtherance of the objects of the charity[13];

(3) Class C: a vacant dwelling[14] which has been such for a continuous period of less than six months ending immediately before the day in question[15];

(4) Class D: an unoccupied dwelling[16] which either:
(a) would be the sole or main residence of a person who is an owner or tenant[17] of the dwelling and is detained elsewhere[18], but for his detention[19]; or
(b) was previously his sole or main residence, if he has been a relevant absentee[20] for the whole period since it last ceased to be such[21];

(5) Class E: an unoccupied dwelling which was previously the sole or main residence of a person who is an owner or tenant of the dwelling[22], and who:
(a) has his sole or main residence elsewhere[23]; and
(b) has been a relevant absentee[24] for the whole of the period since the dwelling last ceased to be his sole or main residence[25];

(6) Class F: an unoccupied[26] dwelling which has been unoccupied since the date of death of a person (the 'deceased')[27] and in relation to which one of the following conditions is satisfied[28], namely:
(a) the deceased had, at the date of his death, a freehold interest in the dwelling, or a leasehold interest in the dwelling which was granted for a term of six months or more[29], and: (i) no person is a qualifying person[30] in respect of the dwelling[31]; or (ii) a person is a qualifying person in respect of the dwelling acting in his capacity as executor or administrator, and no person is a qualifying person in any other capacity[32]; or
(b) the deceased was a tenant of the dwelling at the date of his death, and an executor or administrator acting in his capacity as such is liable for rent (or, as the case may be, a licence fee) for the day[33];

(7) Class G: in relation to Wales, an unoccupied dwelling the occupation of which is prohibited by law, or which is kept unoccupied by reason of action taken under powers conferred by or under any Act of Parliament, with a view to prohibiting its occupation or to acquiring it[34]; or, in relation to England, an unoccupied dwelling: (a) the occupation of which is restricted by a condition which prevents occupancy[35], and is imposed by any planning permission granted or deemed to be granted under Part III of the Town and Country Planning Act 1990[36]; or (b) the occupation of which is otherwise prohibited by law[37]; or (c) which is kept unoccupied by reason of other action taken under powers conferred by or under any Act of Parliament, with a view to prohibiting its occupation or to acquiring it[38];

(8) Class H: an unoccupied dwelling which is held for the purpose of being

available for occupation by a minister of any religious denomination as a residence from which to perform the duties of his office[39];

(9) Class I: an unoccupied dwelling which was previously the sole or main residence of a person who is an owner or tenant of the dwelling[40], and who:
   (a) for the purpose of receiving personal care required by that person by reason of old age, disablement, illness, past or present alcohol or drug dependence or past or present mental disorder has his sole or main residence in another place[41]; and
   (b) has been a relevant absentee[42] for the whole of the period since the dwelling last ceased to be his residence[43];

(10) Class J: an unoccupied dwelling which was previously the sole or main residence of a person who is an owner or tenant of the dwelling[44], and who:
   (a) has his sole or main residence in another place for the purpose of providing (or better providing) personal care for a person who requires such care by reason of old age, disablement, illness, past or present alcohol or drug dependence or past or present mental disorder[45]; and
   (b) has been a relevant absentee[46] for the whole of the period since the dwelling last ceased to be his residence[47];

(11) Class K: an unoccupied dwelling:
   (a) which was last occupied as the sole or main residence of a qualifying person (the 'last occupier')[48]; and
   (b) in relation to which every qualifying person is a student[49], and either: (i) has been a student throughout the period since the last occupier ceased to occupy the dwelling as his sole or main residence[50]; or (ii) has become a student within six weeks of the day mentioned in head (11)(b)(i) above[51];

(12) Class L: an unoccupied dwelling where a mortgagee is in possession under the mortgage[52];

(13) Class M: a dwelling comprising a hall of residence provided predominantly for the accommodation of students which is either:
   (a) owned or managed by an institution[53] or by a body established for charitable purposes only[54]; or
   (b) the subject of an agreement allowing such an institution to nominate the majority of the persons who are to occupy the accommodation so provided[55];

(14) Class N: a dwelling which is either:
   (a) occupied by one or more residents all of whom are relevant persons[56];
   (b) occupied only by one or more relevant persons as term time accommodation[57];

(15) Class O: a dwelling of which the Secretary of State for Defence[58] is the owner, held for the purposes of armed forces accommodation (other than accommodation for visiting forces)[59];

(16) Class P: a dwelling in respect of which at least one person (who would be liable to pay council tax but for this provision) satisfies the condition[60] that he has a relevant association (within the meaning of Part I of the Visiting Forces Act 1952)[61] with a body, contingent or detachment of the forces of a country to which any provision in that Part applies on that day[62];

(17) Class Q: an unoccupied dwelling in relation to which a person is a qualifying person in his capacity as a trustee in bankruptcy[63];

(18) Class R: a dwelling consisting of a pitch or a mooring which is not occupied by a caravan or, as the case may be, a boat[64];

(19) Class S: a dwelling occupied only by a person or persons aged under 18[65];

(20) Class T: an unoccupied dwelling which:
  (a) forms part of a single property[66] which includes another dwelling[67]; and
  (b) may not be let separately from that other dwelling without a breach of planning control[68];

(21) Class U: a dwelling occupied only:
  (a) by one or more severely mentally impaired[69] persons, where (but for these provisions) either such a person, or a relevant person[70], would be liable to pay the council tax[71]; or
  (b) by one or more severely mentally impaired persons, together with one or more relevant persons[72].

(22) Class V: a dwelling in respect of which at least one person (who would be liable to pay council tax but for this class) satisfies the following conditions[73], namely:
  (a) that he has certain privileges and immunities conferred or that he qualifies otherwise for relief[74]; and
  (b) that there is no other dwelling in the United Kingdom which is the main residence of that person, or is the main residence within the United Kingdom of that person[75];

(23) Class W: a dwelling which forms part of a single property including at least one other dwelling and which is the sole or main residence of a dependent relative[76] of a person who is resident in that other dwelling (or, as the case may be, one of those other dwellings)[77].

1 Ie for the purposes of the Local Government Finance Act 1992 s 4 (see paras 233–234 ante): see the Council Tax (Exempt Dwellings) Order 1992, SI 1992/558, art 3.

2 For the meaning of 'dwelling' under the Local Government Finance Act 1992 see para 232 ante.

3 As to exempt dwellings see paras 233–234 ante.

4 Council Tax (Exempt Dwellings) Order 1992, SI 1992/558, art 3.

5 For the purposes of ibid art 3 Class A (as substituted) and art 3 Class C (as substituted) (see head (3) in the text), a dwelling is vacant on any day if on the day:
  (1) in the case of a dwelling consisting of a pitch occupied by a caravan or a mooring occupied by a boat, the caravan or boat is unoccupied (art 2(2)(a)(i)) (art 2(2) substituted by SI 1994/539); and
  (2) in any other case, the dwelling is unoccupied and substantially unfurnished (Council Tax (Exempt Dwellings) Order 1992, art 2(2)(a)(ii) (as so substituted)).

In considering whether a dwelling has been vacant for any period, any one period, not exceeding six weeks, during which it was not vacant is to be disregarded: art 2(2)(b) (as so substituted).

'Caravan' is to be construed in accordance with the Caravan Sites and Control of Development Act 1960 Pt I (ss 1–30) (as amended) (see TOWN AND COUNTRY PLANNING vol 46(3) (Reissue) para 1033): Council Tax (Exempt Dwellings) Order 1992, SI 1992/558, art 2(1) (definition added by SI 1994/539). 'Unoccupied dwelling' means, subject to the Council Tax (Exempt Dwellings) Order 1992, SI 1992/558, art 2(3) (as added and substituted) (see note 12 infra), a dwelling in which no one lives; and 'occupied' is to be construed accordingly: art 2(1) (definition amended by SI 1994/539).

6 For these purposes, 'major repair work' includes structural repair work: Council Tax (Exempt Dwellings) Order 1992, SI 1992/558, art 3 Class A para (3) (art 3 Class A substituted in relation to England by SI 2000/424; and in relation to Wales by SI 2000/1025).

7 Council Tax (Exempt Dwellings) Order 1992, SI 1992/558, art 3 Class A para (2)(a) (as substituted: see note 6 supra).

8 Ibid art 3 Class A para (2)(b) (as substituted: see note 6 supra).

9 Ibid art 3 Class A para (2)(c) (as substituted: see note 6 supra).

10 Ibid art 3 Class A para (2)(c) (as substituted in relation to Wales: see note 6 supra), art 3 Class A para (2)(d) (as substituted in relation to England: see note 6 supra).

11 Ibid art 3 Class A para (1) (as substituted: see note 6 supra).

12 For the purposes of ibid art 3 Class B (as amended) and art 3 Class F (as substituted) (see head (6) in the text), in considering whether a dwelling has been unoccupied for any period, any one period (not exceeding six weeks) during which it was occupied must be disregarded: art 2(3) (added by SI 1993/150; substituted by SI 1994/539). For the meaning of 'unoccupied dwelling' generally see note 5 supra.

13 Council Tax (Exempt Dwellings) Order 1992, SI 1992/558, art 3 Class B (amended by SI 1994/539).

14 See note 5 supra.

15 Council Tax (Exempt Dwellings) Order 1992, SI 1992/558, art 3 Class C (substituted by SI 1993/150).

16 For the meaning of 'unoccupied dwelling' generally see note 5 supra. For the purposes of the Council Tax (Exempt Dwellings) Order 1992, SI 1992/558, art 3 Class D para (1) (as amended), a dwelling is to be regarded as unoccupied if its only occupant or occupants are persons detained elsewhere in the circumstances there mentioned: art 3 Class D para (2).

17 For these purposes, 'tenant' means a person who: (1) has a leasehold interest in a dwelling which was granted for a term of less than six months; (2) is a secure, introductory or statutory tenant of a dwelling; or (3) has a contractual licence to occupy a dwelling: ibid art 2(1) (definition added by SI 1994/539; amended by SI 1997/74). 'Introductory tenant' means a tenant within the meaning of the Housing Act 1996 Pt V Ch I (ss 124–143) (as amended) (see LANDLORD AND TENANT vol 27(2) (2006 Reissue) para 1286 et seq): Council Tax (Exempt Dwellings) Order 1992, SI 1992/558, art 2(1) (definition added by SI 1997/74). 'Secure tenant' means a tenant under a secure tenancy within the meaning of the Housing Act 1985 Pt IV (ss 79–117) (as amended) (see LANDLORD AND TENANT vol 27(2) (2006 Reissue) para 1300 et seq): Council Tax (Exempt Dwellings) Order 1992, SI 1992/558, art 2(1) (definition added by SI 1994/539). 'Statutory tenant' means a statutory tenant within the meaning of the Rent Act 1977 or the Rent (Agriculture) Act 1976 (see LANDLORD AND TENANT vol 27(2) (2006 Reissue) para 808 et seq): Council Tax (Exempt Dwellings) Order 1992, SI 1992/558, art 2(1) (definition added by SI 1994/539).

18 Ie in the circumstances specified in the Local Government Finance Act 1992 ss 11(5), 79(5), Sch 1 para 1 (as amended; prospectively further amended) (see para 248 post): see the Council Tax (Exempt Dwellings) Order 1992, SI 1992/558, art 3 Class D para (1)(a) (as amended: see note 19 infra).

19 Ibid art 3 Class D para (1)(a) (amended by SI 1994/539).

20 For these purposes, 'relevant absentee', in relation to a dwelling, means a person who is detained elsewhere in the circumstances mentioned in the Council Tax (Exempt Dwellings) Order 1992, SI 1992/558, art 3 Class D para (1)(a) (as amended) (see head (4)(a) in the text): art 2(1).

21 Ibid art 3 Class D para (1)(b) (substituted by SI 1993/150).

22 See the Council Tax (Exempt Dwellings) Order 1992, SI 1992/558, art 3 Class E (amended by SI 1994/539).

23 Ie, in relation to Wales, in the circumstances specified in the Local Government Finance Act 1992 Sch 1 para 6 (as amended; prospectively further amended) (hospital patients) (see para 252 post) or Sch 1 para 7 (as amended) (patients in homes in England and Wales) (see para 253 post) or Sch 1 para 8 (as amended) (patients in homes in Scotland) (see the Council Tax (Exempt Dwellings) Order 1992, SI 1992/558, art 3 Class E para (a)) or, in relation to England, in the circumstances specified in the Local Government Finance Act 1992 Sch 1 para 6 (as amended; prospectively further amended) or Sch 1 para 7 (as amended) or in accommodation provided in Scotland by a care home service (see the Council Tax (Exempt Dwellings) Order 1992, SI 1992/558, art 3 Class E para (a) (substituted in relation to England by SI 2005/2865)). For the meanings of 'England' and 'Wales' see para 1 note 2 ante.

24 For these purposes, 'relevant absentee', in relation to a dwelling, means a person who has his sole or main residence elsewhere in the circumstances mentioned in the Council Tax (Exempt Dwellings) Order 1992, SI 1992/558, art 3 Class E para (a) (substituted in relation to England) (see head (5)(a) in the text): art 2(1).

25 Ibid art 3 Class E para (b).

26 See note 12 supra.

27 Council Tax (Exempt Dwellings) Order 1992, SI 1992/558, art 3 Class F para (1)(a) (art 3 Class F substituted by SI 1994/539).

28 Council Tax (Exempt Dwellings) Order 1992, SI 1992/558, art 3 Class F para (1)(b) (as substituted: see note 27 supra).

29 Ibid art 3 Class F para (2)(a) (as substituted: see note 27 supra).

30 For these purposes, 'qualifying person' means a person who would, but for the provisions of the Council Tax (Exempt Dwellings) Order 1992, SI 1992/558 (as amended), be liable for the council tax in respect of a dwelling on a particular day as the owner, whether or not jointly with any other person: art 2(1).

31 Ibid art 3 Class F para (2)(a)(i) (as substituted: see note 27 supra).

32 Ibid art 3 Class F para (2)(a)(ii) (as substituted: see note 27 supra). Head (6)(a)(ii) in the text only applies, in a case where a grant of probate or letters of administration has been made, if less than six months have elapsed since the date of the grant: art 3 Class F para (3) (as so substituted).

33 Ibid art 3 Class F para (2)(b) (as substituted: see note 27 supra). Head (6)(b) in the text only applies, in a case where a grant of probate or letters of administration has been made, if less than six months have elapsed since the date of the grant: art 3 Class F para (3) (as so substituted).

34 Ibid art 3 Class G. See *Watson v Rhonnda Cynon Taff County Council* [2001] EWHC Admin 913, [2002] RVR 132 (notices to repair issued from local authority were not notices which constituted an action with a view to prohibiting occupation of the property in question).

35 Council Tax (Exempt Dwellings) Order 1992, SI 1992/558, art 3 Class G para (a)(i) (art 3 Class G substituted, in relation to billing authorities in England, by SI 2006/2318). As to billing authorities see para 229 ante.

36 Council Tax (Exempt Dwellings) Order 1992, SI 1992/558, art 3 Class G para (a)(ii) (as substituted in relation to billing authorities in England only: see note 35 supra). The text refers to planning permission granted or deemed to be granted under the Town and Country Planning Act 1990 Pt III (ss 55–106B) (as amended) (see TOWN AND COUNTRY PLANNING vol 46(1) (Reissue) para 217 et seq): see the Council Tax (Exempt Dwellings) Order 1992, SI 1992/558, art 3 Class G para (a)(ii) (as so substituted).

37 Ibid art 3 Class G para (b) (as substituted in relation to billing authorities in England only: see note 35 supra).

38 Ibid art 3 Class G para (c) (as substituted in relation to billing authorities in England only: see note 35 supra).

39 Ibid art 3 Class H.

40 Ibid art 3 Class I (substituted in relation to England by SI 2003/3121; and in relation to Wales by SI 2004/2921).

41 Council Tax (Exempt Dwellings) Order 1992, SI 1992/558, art 3 Class I para (a) (as substituted: see note 40 supra). The reference in the text to another place is to another place not being a hospital, care home, independent hospital or hostel within the meaning of the Local Government Finance Act 1992 Sch 1 para 6 (as amended; prospectively further amended) (hospital patients) (see para 252 post) or Sch 1 para 7 (as amended) (patients in homes in England and Wales) (see para 253 post) or in accommodation provided in Scotland by a care home service: see the Council Tax (Exempt Dwellings) Order 1992, SI 1992/558, art 3 Class I para (a) (as so substituted).

42 For these purposes, 'relevant absentee', in relation to a dwelling, means a person who has his sole or main residence elsewhere in the circumstances mentioned in ibid art 3 Class I para (a) (as substituted) (see head (9)(a) in the text): art 2(1).

43 Ibid art 3 Class I para (b) (as substituted: see note 40 supra).

44 Ibid art 3 Class J (amended by SI 1994/539).

45 Council Tax (Exempt Dwellings) Order 1992, SI 1992/558, art 3 Class J para (a).

46 For these purposes, 'relevant absentee', in relation to a dwelling, means a person who has his sole or main residence elsewhere in the circumstances mentioned in ibid art 3 Class J para (a) (see head (10)(a) in the text): art 2(1).

47 Ibid art 3 Class J para (b).

48 Ibid art 3 Class K para (a) (art 3 Class K substituted by SI 1993/150).

49 Council Tax (Exempt Dwellings) Order 1992, SI 1992/558, art 3 Class K para (b) (as substituted: see note 48 supra). For the meaning of 'student' see para 251 note 2 post; definition applied by art 2(1).

50 Ibid art 3 Class K para (b)(i) (as substituted: see note 48 supra).

51 Ibid art 3 Class K para (b)(ii) (as substituted: see note 48 supra).

52 Ibid art 3 Class L.

53 For the meaning of 'institution' see para 251 note 4 post; definition applied by ibid art 3 Class M para (a) (as amended: see note 54 infra).

54 Ibid art 3 Class M para (a) (amended by SI 1994/539).

55 Council Tax (Exempt Dwellings) Order 1992, SI 1992/558, Class M para (b) (substituted by SI 1993/150).

56 Council Tax (Exempt Dwellings) Order 1992, SI 1992/558, art 3 Class N para (1)(a) (Class N substituted by SI 1993/150). For these purposes, 'relevant person' means:

(1) a student (Council Tax (Exempt Dwellings) Order 1992, SI 1992/558, art 3 Class N para (2)(a)(i) (art 3 Class N as so substituted; art 3 Class N para (2)(a) further substituted by SI 1995/619));

(2) a student's spouse, civil partner or dependant being in each case a person who is not a British citizen and who is prevented, by the terms of his leave to enter or remain in the United Kingdom, from taking paid employment or from claiming benefits (Council Tax (Exempt Dwellings) Order 1992, SI 1992/558, art 3 Class N para (2)(a)(ii) (art 3 Class N para (2)(a) as so substituted; art 3 Class N para (2)(a)(ii) amended in relation to England by SI 2005/2865; and in relation to Wales by SI 2005/3302)); or

(3) a person who is under the age of 20 and has within a relevant period ceased to undertake a qualifying course of education or a full-time course of education (as to this class see para 251 post) (Council Tax (Additional Provision for Discount Disregards) Regulations 1992, SI 1992/552, reg 3(1) Class C (substituted by SI 1993/149), applied by the Council Tax (Exempt Dwellings) Order 1992, SI 1992/558, art 3 Class N para (2)(a)(iii) (as so substituted)).

For the meaning of 'United Kingdom' see para 127 note 20 ante. As to who are British citizens see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) para 8 et seq.

57 Ibid art 3 Class N para (1)(b) (as substituted: see note 56 supra). A dwelling is to be regarded as occupied by a relevant person as term time accommodation during any vacation in which he:

(1) holds a freehold or leasehold interest in or licence to occupy the whole or any part of the dwelling (art 3 Class N para (2)(b)(i) (as so substituted)); and

(2) has previously used or intends to use the dwelling as term time accommodation (art 3 Class N para (2)(b)(ii) (as so substituted)).

58 As to the Secretary of State for Defence see ARMED FORCES vol 2(2) (Reissue) para 2; CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) para 438 et seq.

59 Council Tax (Exempt Dwellings) Order 1992, SI 1992/558, art 3 Class O (amended by SI 1992/2941). For the meaning of 'visiting forces' see the Visiting Forces Act 1952 s 12(1) (definition as amended) (see ARMED FORCES vol 2(2) (Reissue) para 140); definition applied by virtue of the Council Tax (Exempt Dwellings) Order 1992, SI 1992/558, art 3 Class O (as so amended).

60 Ibid art 3 Class P para (1) (art 3 Class P added by SI 1992/2941).

61 Ie within the meaning of the Visiting Forces Act 1952 Pt I (ss 1–12) (as amended): see the Council Tax (Exempt Dwellings) Order 1992, SI 1992/558, art 3 Class P para (2) (as added: see note 60 supra). References in the Visiting Forces Act 1952 Pt I (as amended) to a person's having at any time a relevant association with a visiting force are references to his being at that time a person of one or other of the following descriptions (s 12(2)), that is to say:

(1) a member of that visiting force or a member of a civilian component of that force (s 12(2)(a));

(2) a person, not being a citizen of the United Kingdom and Colonies or ordinarily resident in the United Kingdom, but being a dependant of a member of that visiting force or of a civilian component of that force (s 12(2)(b)).

For these purposes, the expression 'dependant', in relation to a person, means any of the following, that is to say: (a) the wife or husband of that person (s 12(4)(a)); and (b) any other person wholly or mainly maintained by him or in his custody, charge or care (s 12(4)(b)).

62 Council Tax (Exempt Dwellings) Order 1992, SI 1992/558, art 3 Class P para (2) (as added: see note 60 supra). The countries referred to include any country to which any provision in the Visiting Forces Act 1952 Pt I (ss 1–12) (as amended) (see ARMED FORCES vol 2(2) (Reissue) para 137 et seq) applies: see the Council Tax (Exempt Dwellings) Order 1992, SI 1992/558, art 3 Class P (as so added).

63 Ibid art 3 Class Q (added by SI 1993/150). The text refers to a trustee in bankruptcy under the Bankruptcy Act 1914 (repealed with savings) or the Insolvency Act 1986 (see BANKRUPTCY AND INDIVIDUAL INSOLVENCY vol 3(2) (2002 Reissue) para 316 et seq): see the Council Tax (Exempt Dwellings) Order 1992, SI 1992/558, art 3 Class Q (as so added).

64 Ibid art 3 Class R (added by SI 1994/539).

65 Council Tax (Exempt Dwellings) Order 1992, SI 1992/558, art 3 Class S (art 3 Classes S–U added by SI 1995/619).

66 For these purposes, 'single property' means property which would, apart from the Council Tax (Chargeable Dwellings) Order 1992, SI 1992/549 (as amended), be one dwelling within the meaning of the Local Government Finance Act 1992 s 3 (see para 232 ante): Council Tax (Exempt Dwellings) Order 1992, SI 1992/558, art 2(1) (definition added by SI 1997/656).

67 Council Tax (Exempt Dwellings) Order 1992, SI 1992/558, art 3 Class T para (a) (as added: see note 65 supra).

68 Ibid art 3 Class T para (b) (as added: see note 65 supra). For the meaning of 'breach of planning control' for these purposes see the Town and Country Planning Act 1990 s 171A (as added) (see TOWN AND COUNTRY PLANNING vol 46(2) (Reissue) para 551); definition applied by the Council Tax (Exempt Dwellings) Order 1992, SI 1992/558, art 3 Class T para (b) (as so added).

69 For the meaning of 'severely mentally impaired' see para 249 note 2 post; definition applied by the Council Tax (Exempt Dwellings) Order 1992, SI 1992/558, art 3 Class U para (2)(b) (as added and substituted: see note 71 infra).

70 For the meaning of 'relevant person' see note 56 supra; definition applied by ibid art 3 Class U para (2)(b) (as added and substituted: see note 71 infra).

71 Ibid art 3 Class U para (1)(a) (art 3 Class U as added (see note 65 supra); substituted by SI 1999/536).

72 Council Tax (Exempt Dwellings) Order 1992, SI 1992/558, art 3 Class U para (1)(b) (as added and substituted: see note 71 supra).

73 Ibid art 3 Class V para (1) (art 3 Classes V, W added by SI 1997/656).

74 Council Tax (Exempt Dwellings) Order 1992, SI 1992/558, art 3 Class V para (2) (as added: see note 73 supra). The condition referred to in head (22)(a) in the text is that the person:

(1) is a person on whom privileges and immunities are conferred by the Diplomatic Privileges Act 1964 (see FOREIGN RELATIONS LAW vol 18(2) (Reissue) para 881) (Council Tax (Exempt Dwellings) Order 1992, SI 1992/558, art 3 Class V para (2)(a) (as so added)); or

(2) is a person on whom privileges and immunities are conferred under the Commonwealth Secretariat Act 1966 s 1(2), Schedule Pt II para 5(1) (as amended) (staff of the Secretariat) (see COMMONWEALTH vol 6 (2003 Reissue) para 722) (Council Tax (Exempt Dwellings) Order 1992, SI 1992/558, art 3 Class V para (2)(b) (as so added));

(3) is a person on whom privileges and immunities are conferred by the Consular Relations Act 1968 s 1 (as amended) (see FOREIGN RELATIONS LAW vol 18(2) (Reissue) para 896 et seq) (Council Tax (Exempt Dwellings) Order 1992, SI 1992/558, art 3 Class V para (2)(c) (as so added)); or

(4) is (in relation to any organisation specified in an Order in Council made under the International Organisations Act 1968 s 1(2)) within a class of persons mentioned in s 1(3) to which the relevant

Order extended relief from rates as specified in Sch 1 Pt II para 9 (as amended) (see FOREIGN RELATIONS LAW vol 18(2) (Reissue) para 922) (Council Tax (Exempt Dwellings) Order 1992, SI 1992/558, art 3 Class V para (2)(d) (as so added)); or

(5) is a person on whom privileges and immunities are conferred by the Commonwealth Countries and Republic of Ireland (Immunities and Privileges) Order 1985, SI 1985/1983, arts 3–4 (see COMMONWEALTH vol 6 (2003 Reissue) para 724) (Council Tax (Exempt Dwellings) Order 1992, SI 1992/558, art 3 Class V para (2)(e) (as so added)); or

(6) is the head of any office established as described in the Hong Kong Economic Trade Act 1996 s 1(1) (Council Tax (Exempt Dwellings) Order 1992, SI 1992/558, art 3 Class V para (2)(f) (as so added));

and is not:

(a) a British citizen, a British overseas territories citizen, a British national (overseas) or a British overseas citizen (art 3 Class V para (2)(i) (as so added; amended by virtue of the British Overseas Territories Act 2002 s 2(3))); or

(b) a person who under the British Nationality Act 1981 is a British subject (see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) paras 9, 66–71) (Council Tax (Exempt Dwellings) Order 1992, SI 1992/558, art 3 Class V para (2)(ii) (as so added)); or

(c) a British protected person (within the meaning of the British Nationality Act 1981: see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) paras 10, 72–76) (Council Tax (Exempt Dwellings) Order 1992, SI 1992/558, art 3 Class V para (2)(iii) (as so added)); or

(d) a permanent resident of the United Kingdom (art 3 Class V para (2)(iv) (as so added)).

As to British citizens see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) paras 8, 23–43; as to British overseas citizens see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) paras 8, 58–62; and as to British overseas territories citizens see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) paras 8, 44–57.

75 Ibid art 3 Class V para (3) (as added: see note 73 supra).

76 For the purposes of ibid art 3 Class W (as so added), a person is to be regarded as the relative of another if (art 2(5) (added by SI 1997/656; substituted by SI 1998/291)):

(1) he is the spouse or civil partner of that person (Council Tax (Exempt Dwellings) Order 1992, SI 1992/558, art 2(5)(a) (art 2(5) as so added and substituted; art 2(5)(a) amended in relation to England by SI 2005/2865; and in relation to Wales by SI 2005/3302)); or

(2) he is that person's parent, child, grandparent, grandchild, brother, sister, uncle or aunt, nephew or niece, great-grandparent, great-grandchild, great-uncle, great-aunt, great-nephew or great-niece (Council Tax (Exempt Dwellings) Order 1992, SI 1992/558, art 2(5)(b) (as so added and substituted)); or

(3) he is that person's great-great-grandparent, great-great-grandchild, great-great-uncle, great-great-aunt, great-great-nephew or great-great-niece (art 2(5)(c) (as so added and substituted)).

For these purposes:

(a) a relationship by marriage or civil partnership is to be treated as a relationship by blood (art 2(5)(i) (art 2(5) as so added and substituted; art 2(5)(i) amended in relation to England by SI 2005/2865; and in relation to Wales by SI 2005/3302));

(b) a relationship between a man and a woman living together as husband and wife is to be treated as a relationship by marriage and a relationship between two persons of the same sex living together as if they were civil partners is to be treated as a relationship by civil partnership (Council Tax (Exempt Dwellings) Order 1992, SI 1992/558, art 2(5)(ii) (art 2(5) as so added and substituted; art 2(5)(ii) amended in relation to England by SI 2005/2865; and in relation to Wales by SI 2005/3302));

(c) the stepchild of a person is to be treated as his child (Council Tax (Exempt Dwellings) Order 1992, SI 1992/558, art 2(5)(iii) (as so added and substituted)); and

(d) the child of the civil partner of a person ('A') is to be treated as A's child (Council Tax (Exempt Dwellings) Order 1992, SI 1992/558, art 2(5)(ii) (art 2(5) as so added and substituted; art 2(5)(iv) added in relation to England by SI 2005/2865; and in relation to Wales by SI 2005/3302)).

A relative is to be regarded as dependent if he is:

(i) aged 65 years or more (art 2(4)(a) (art 2(4) added by SI 1997/656)); or

(ii) severely mentally impaired (Council Tax (Exempt Dwellings) Order 1992, SI 1992/558, art 2(4)(b) (as so added)); or

(iii) substantially and permanently disabled (whether by illness, injury, congenital deformity or otherwise) (art 2(4)(c) (as so added)).

For the meaning of 'severely mentally impaired' see para 249 note 2 post; definition applied by art 2(4)(b) (as so added).

77 Ibid art 3 Class W (as added: see note 73 supra).

236. Completion of new dwellings. In circumstances where:

(1) a completion notice[1] is served[2]; and

(2) the building[3] to which the notice relates is not completed on or before the relevant day[4],

any dwelling[5] in which the building or any part of it will be comprised is deemed, for the purposes of the main council tax provisions which have effect in relation to England and Wales[6], to have come into existence on that day[7].

In circumstances where:

(a) a day is determined[8] as the completion day in relation to a new building[9]; and

(b) the building is one produced by the structural alteration of a building which is comprised in one or more existing dwellings[10],

the existing dwelling or dwellings is or are deemed for these purposes[11] to have ceased to exist on that day[12].

1 As to completion notices see para 65 et seq ante.

2 Local Government Finance Act 1992 s 17(3)(a). The text refers to a completion notice served under the Local Government Finance Act 1988 s 46A(1) (as added), Sch 4A (as added and amended) (see para 65 et seq ante): see the Local Government Finance Act 1992 s 17(3)(a). Any reference in s 17 (as amended) to the Local Government Finance Act 1988 Sch 4A (as added and amended) is a reference to that Schedule as it applies for the purposes of the Local Government Finance Act 1992 Pt I (ss 1–69) (as amended) (see paras 228 et seq ante, 237 et seq post): s 17(2). Subject to the provisions of s 17 (as amended), the Local Government Finance Act 1988 Sch 4A (as added and amended) (which makes provision for the determination of a completion day in relation to a new building), with the exception of Sch 4A para 6 (as added and amended) (see para 68 note 16 ante), applies for the purposes of the Local Government Finance Act 1992 Pt I (as amended) as it applies for the purposes of the Local Government Finance Act 1988 Pt III (ss 41–67) (as amended) (see para 7 et seq ante): Local Government Finance Act 1992 s 17(1). Any reference in the Local Government Finance Act 1988 Sch 4A (as added and amended) to the valuation officer is to be construed for these purposes as a reference to the listing officer: see the Local Government Finance Act 1992 s 17(7). As to listing officers see para 230 ante.

3 For these purposes, any reference to a building includes a reference to a part of a building: see ibid s 17(7).

4 Ibid s 17(3)(b). For these purposes, the relevant day in relation to a completion notice is:

(1) where no appeal against the notice is brought under the Local Government Finance Act 1988 Sch 4A para 4 (as added and amended) (see para 68 ante), the day stated in the notice (Local Government Finance Act 1992 s 17(4)(a) (s 17(4)(a), (b) amended by the Local Government Act 2003 s 127(1), Sch 7 paras 40, 43(1))); and

(2) where an appeal against the notice is brought under the Local Government Finance Act 1988 Sch 4A para 4 (as added and amended), the day determined under Sch 4A (as added and amended) (see para 68 ante) as the completion day in relation to the building to which the notice relates (Local Government Finance Act 1992 s 17(4)(b) (as so amended)).

5 For the meaning of 'dwelling' see para 232 ante.

6 Ie for the purposes of the Local Government Finance Act 1992 Pt I (as amended) (see paras 228 et seq ante, 237 et seq post): see s 17(3). For the meanings of 'England' and 'Wales' see para 1 note 2 ante.

7 Ibid s 17(3).

8 Ie under the Local Government Finance Act 1988 Sch 4A (as added and amended) (see para 65 et seq ante): see the Local Government Finance Act 1992 s 17(5)(a).

9 Ibid s 17(5)(a). Any reference in s 17 (as amended) or in the Local Government Finance Act 1988 Sch 4A (as added and amended) (see para 65 et seq ante) to a new building includes a reference to a building produced by the structural alteration of an existing building where:

(1) the existing building or any part of it is comprised in a dwelling which, by virtue of the alteration, becomes or becomes part of a different dwelling or different dwellings (Local Government Finance Act 1992 s 17(6)(a)); or

(2) neither the existing dwelling nor any part of it is, except by virtue of the alteration, comprised in any dwelling (s 17(6)(b)).

10 Ibid s 17(5)(b).

11 Ie for the purposes of ibid Pt I (as amended) (see paras 228 et seq ante, 237 et seq post): see s 17(5).

12 Ibid s 17(5).

(iii) Persons Liable

237. Persons liable to pay council tax. The person who is liable to pay council tax[1] in respect of any chargeable dwelling[2] and any day is the person who falls within the first of heads (1) to (6) below to apply, taking head (1) first, head (2) next, and so on[3]. Accordingly, a person is liable to pay council tax in relation to any chargeable dwelling and any day if, on that day:

(1) he is a resident[4] of the dwelling and has a freehold interest in the whole or any part of it[5]; or
(2) he is such a resident and has a leasehold interest in the whole or any part of the dwelling which is not inferior to another such interest held by another such resident[6]; or
(3) he is both such a resident and a statutory[7], secure[8] or introductory tenant[9] of the whole or any part of the dwelling[10]; or
(4) he is such a resident and has a contractual licence to occupy the whole or any part of the dwelling[11]; or
(5) he is such a resident[12]; or
(6) he is the owner[13] of the dwelling[14].

Where, in relation to any chargeable dwelling and any day, two or more persons fall within the first of heads (1) to (6) above to apply, they are each jointly and severally liable to pay the council tax in respect of the dwelling and that day[15]. However, as respects any day on which one or more of the persons so mentioned fall to be disregarded for the purposes of discount, either on grounds of severe mental impairment[16] or owing to their status as a student, apprentice or trainee[17], and one or more of them do not, liability to pay the council tax in respect of the dwelling and that day must be determined as follows[18]:

(a) if only one of those persons does not fall to be so disregarded, he is solely liable[19];
(b) if two or more of those persons do not fall to be so disregarded, they are each jointly and severally liable[20].

In prescribed cases, these provisions relating to liability to pay council tax do not apply, and other provisions have effect in substitution, by virtue of which liability falls on the owner[21].

1 As to council tax see para 227 et seq ante.
2 For the meaning of 'chargeable dwelling' see para 233 ante; and for the meaning of 'dwelling' see para 232 ante.
3 Local Government Finance Act 1992 s 6(1). Thus liability falls first on the person who is resident in the dwelling and has the principal legal interest in it; but if there is no resident, the non-resident owner is liable (e g liability attaches to holiday homes and second homes, although there may be a discount).
4 Unless the context otherwise requires, 'resident', in relation to any dwelling, means an individual who has attained the age of 18 years and has his sole or main residence in the dwelling: ibid ss 6(5), 69(1).

Where a person owns more than one property, it is a question of fact and degree which of the properties is the sole or main residence: see *Frost (Inspector of Taxes) v Feltham* [1981] 1 WLR 452, [1981] STC 115. 'Mainly' may be defined as indicating that more than half of the total time is spent in a certain property: see *Fawcett Properties Ltd v Buckinghamshire County Council* [1961] AC 636 at 669, [1960] 3 All ER 503 at 512, HL, per Lord Morton. However, the individual circumstances of each case must be weighed: see *Ward v Kingston-upon-Hull City Council* [1993] RA 71 (house with security of tenure but occupied only for six to nine weeks a year held to be main residence despite remaining time spent in rented accommodation tied to employment abroad). In *R (on the application of Williams) v Horsham District Council* [2004] EWCA Civ 39, [2004] 3 All ER 30, [2004] 1 WLR 1137, [2004] RA 49, it was held that, rather than attach too much weight to the issues of 'security of tenure' and the 'intention to return', a tribunal should view a person's main residence as being the dwelling that a reasonable onlooker, with knowledge of the material facts, would regard as that person's home at the material time, the words 'sole or main residence' in the Local Government Finance Act 1992 s 6(5) referring to premises in which a taxpayer actually resided but allowing for the fact that a person could reside in more than one place. See

also *Parry v Derbyshire Dales District Council* [2006] EWHC 988 (Admin), [2006] RA 252, [2006] All ER (D) 70 (May) (the question of residence is one of fact, not simply one of law; while status for income tax purposes might not be determinative of his liability for council tax, it seemed anomalous that a person should be non-resident in the United Kingdom for income tax purposes, but mainly resident for the purpose of liability for council tax).

On the issue of residence see also *Doncaster MBC v Stark* [1998] RVR 80; *Bennett v Copeland Borough Council* [2004] EWCA Civ 672 at [33], [2004] RA 171 at [33] per Rix LJ (actual residence is critical to an understanding of the Local Government Finance Act 1992 s 6(2) (as amended)). Also relevant are cases decided in relation to the community charge, where sole or main occupation was a determinative criterion: see *Bradford Metropolitan City Council v Auderton* [1991] RA 45, 89 LGR 681 (length of time spent at an address an obviously relevant factor); *Codner v Wiltshire Valuation and Community Charge Tribunal* [1994] RVR 169 (relevant to consider joint ownership of a family home and location of family although working week passed elsewhere). See also *Cox v London (South West) Valuation and Community Charge Tribunal and Poole Borough Council Community Charge Registration Office* [1994] RVR 171. Other relevant factors include the degree of permanence, including where the majority of a person's possessions are kept: *Frost (Inspector of Taxes) v Feltham* supra. Matters of lesser weight include the person's own view as to his main residence, and where a person sleeps: *Mullaney v Watford Borough Council and Hertfordshire Valuation Tribunal* [1997] RA 225.

Some of the cases cited in this paragraph were decided under earlier legislation, and they must therefore now be considered in relation to the provisions of the Local Government Finance Act 1992 (see paras 228 et seq ante, 238 et seq post). As to the historical development of rating law and the continuing relevance of old case law to the current statutory regime governing council tax see para 2 ante.

5 Local Government Finance Act 1992 s 6(2)(a).

6 Ibid s 6(2)(b). See *Regentford Ltd v Shepway District Council* [2006] EWHC 3200 (Admin), [2006] RVR 377, [2006] All ER (D) 295 (Oct).

7 'Statutory tenant' means a statutory tenant within the meaning of the Rent Act 1977 or the Rent (Agriculture) Act 1976 (see LANDLORD AND TENANT vol 27(2) (2006 Reissue) para 808 et seq): Local Government Finance Act 1992 s 6(6).

8 'Secure tenant' means a tenant under a secure tenancy within the meaning of the Housing Act 1985 Pt IV (ss 79–117) (as amended) (see LANDLORD AND TENANT vol 27(2) (2006 Reissue) para 1300 et seq): Local Government Finance Act 1992 s 6(6).

9 'Introductory tenant' means a tenant under an introductory tenancy within the meaning of the Housing Act 1996 Pt V Ch I (ss 124–143) (as amended) (see LANDLORD AND TENANT vol 27(2) (2006 Reissue) para 1286 et seq): Local Government Finance Act 1992 s 6(6) (definition added by the Housing Act 1996 (Consequential Amendments) Order 1997, SI 1997/74, art 2, Schedule para 8(b)).

10 Local Government Finance Act 1992 s 6(2)(c) (amended by the Housing Act 1996 (Consequential Amendments) Order 1997, SI 1997/74, Schedule para 8(a)). See *Regentford Ltd v Shepway District Council* [2006] EWHC 3200 (Admin), [2006] RVR 377, [2006] All ER (D) 295 (Oct).

11 Local Government Finance Act 1992 s 6(2)(d).

12 Ibid s 6(2)(e).

13 Unless the context otherwise requires, 'owner', in relation to any dwelling, means the person as regards whom the following conditions are fulfilled, namely that: (1) he has a material interest in the whole or any part of the dwelling; and (2) at least part of the dwelling (or, as the case may be, at least part of the part of the dwelling concerned) is not subject to a material interest inferior to his interest: ibid ss 6(5), 69(1). 'Material interest' means a freehold interest or a leasehold interest which was granted for a term of six months or more: s 6(6).

14 Ibid s 6(2)(f). As to the relationship between head (6) in the text and head (1) in the text see *Parry v Derbyshire Dales District Council* [2006] EWHC 988 (Admin), [2006] RA 252, [2006] All ER (D) 70 (May) (the person who is the owner of a dwelling is not, without more, resident in it and there has to be a resident of a dwelling if it is to be a person's residence; the fact that a legal impediment to residence by the freehold owner is removed does not, of itself, result in his residing in the dwelling). As to the issue of residence see the cases cited in note 4 supra.

15 Local Government Finance Act 1992 s 6(3). As to apportionment in the case of joint taxpayers see the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 27 (as substituted); and para 292 post. As to the liability of spouses see para 240 post.

16 Ie by virtue of the Local Government Finance Act 1992 s 11(5), Sch 1 para 2 (see para 249 post): see s 6(4) (as amended: see note 18 infra).

17 Ie by virtue of ibid Sch 1 para 4 (see para 251 post): see s 6(4) (as amended: see note 18 infra).

18 Ibid s 6(4) (amended by the Local Government Act 2003 s 74(1)).

19 Local Government Finance Act 1992 s 6(4)(a).

20 Ibid s 6(4)(b).

21 See paras 238–239 post.

238. Liability in respect of caravans and boats. Where, in relation to any chargeable dwelling[1] which consists of a pitch occupied by a caravan[2], or a mooring occupied by a boat[3], on any day, the owner of the caravan or boat[4] is not, but some other person is, a resident[5] of the dwelling, that other person is liable to pay the council tax[6] in respect of the dwelling and that day[7]. The owner of the caravan or boat is liable otherwise[8] to pay the council tax in respect of the dwelling and that day[9].

Where, on any day, two or more persons are liable to pay the council tax by virtue of the provisions in respect of caravans and boats, they are each jointly and severally so liable in respect of the dwelling and that day[10]. However, as respects any day on which one or more of the persons so mentioned fall to be disregarded for the purposes of discount, either on grounds of severe mental impairment[11] or owing to their status as a student, apprentice or trainee[12], and one or more of them do not, liability to pay the council tax in respect of the dwelling and that day must be determined as follows[13]:

(1) if only one of those persons does not fall to be so disregarded, he is solely liable[14];

(2) if two or more of those persons do not fall to be so disregarded, they are each jointly and severally liable[15].

1 For the meaning of 'chargeable dwelling' see para 233 ante; and for the meaning of 'dwelling' see para 232 ante.

2 For these purposes, 'caravan' is to be construed in accordance with the Caravan Sites and Control of Development Act 1960 Pt I (ss 1–30) (as amended) (see TOWN AND COUNTRY PLANNING vol 46(3) (Reissue) para 1033): Local Government Finance Act 1992 s 7(6).

3 See ibid s 7(1). The provisions of s 7(2)–(4) (see the text and notes 5–10 infra) are to have effect in substitution for s 6 (as amended) (see para 237 ante) in relation to any chargeable dwelling which consists of a pitch or a mooring as mentioned in the text: see s 7(1).

4 Any reference in ibid s 7 to the owner of a caravan or boat is to be construed: (1) in relation to a caravan or boat which is subject to an agreement for hire-purchase or conditional sale, as a reference to the person in possession under the agreement (s 7(7)(a)); (2) in relation to a caravan or boat which is subject to a bill of sale or mortgage, as a reference to the person entitled to the property in it apart from the bill or mortgage (s 7(7)(b)).

5 For the meaning of 'resident' see para 237 note 4 ante.

6 As to council tax see para 227 et seq ante.

7 Local Government Finance Act 1992 s 7(2).

8 Ie where on any day ibid s 7(2) (see the text and notes 1–7 supra) does not apply: see s 7(3).

9 Ibid s 7(3).

10 Ibid s 7(4).

11 Ie by virtue of ibid s 11(5), Sch 1 para 2 (see para 249 post): see s 6(4) (as amended: see note 13 infra), applied by s 7(5).

12 Ie by virtue of ibid Sch 1 para 4 (see para 251 post): see s 6(4) (as amended: see note 13 infra), applied by s 7(5).

13 Ibid s 6(4) (amended by the Local Government Act 2003 s 74(1)), applied by the Local Government Finance Act 1992 s 7(5).

14 Ibid s 6(4)(a), applied by s 7(5).

15 Ibid s 6(4)(b), applied by s 7(5).

239. Liability in prescribed cases. In relation to any chargeable dwelling[1] that is of a class prescribed for the purpose[2], the owner[3] of the dwelling is liable to pay the council tax[4] in respect of the dwelling and any day on which the provisions allowing for prescription have effect in relation to the dwelling[5].

Where, on any day, two or more persons are liable to pay the council tax in respect of a chargeable dwelling which falls within a class so prescribed[6], they are each jointly and severally liable to pay the council tax in respect of the dwelling and that day[7]. However, as respects any day on which one or more of the persons so mentioned fall to be disregarded for the purposes of discount, either on grounds of severe mental

impairment[8] or owing to their status as a student, apprentice or trainee[9], and one or more of them do not, liability to pay the council tax in respect of the dwelling and that day must be determined as follows[10]:

(1) if only one of those persons does not fall to be so disregarded, he is solely liable[11];

(2) if two or more of those persons do not fall to be so disregarded, they are each jointly and severally liable[12].

For these purposes, a class of dwellings may be prescribed by reference to such factors as the Secretary of State (or the Welsh Ministers, as the case may be) sees fit[13]. In particular, a class of dwellings may be prescribed by reference to one or more of the following factors[14], namely:

(a) the physical characteristics of dwellings[15];

(b) the fact that dwellings are unoccupied or are occupied for prescribed purposes or are occupied or owned by persons of prescribed descriptions[16].

1 For the meaning of 'chargeable dwelling' see para 233 ante; and for the meaning of 'dwelling' see para 232 ante.

2 Ie prescribed for the purposes of the Local Government Finance Act 1992 s 8(1) or s 8(2), as the case may be: see s 8(1), (2). The provisions of s 8(3), (4) (see the text and notes 3–7 infra) have effect in substitution for s 6 (as amended) (see para 237 ante) or (as the case may be) s 7 (see para 238 ante):

(1) in relation to any chargeable dwelling of a class prescribed for the purposes of s 8(1) (see s 8(1)); and

(2) in relation to any chargeable dwelling of a class prescribed for the purposes of s 8(2), if the billing authority so determines in relation to all dwellings of that class which are situated in its area (see s 8(2)).

A determination made under s 8(2) may not be questioned except by an application for judicial review: see s 66(1), (2)(b) (s 66(2)(b) amended by the Local Government Act 2003 s 127(1), Sch 7 paras 40, 49). If, on an application for judicial review, the court decides to grant relief in respect of any of the matter, it must quash the determination: see the Local Government Finance Act 1992 s 66(3). As to the procedure for judicial review see ADMINISTRATIVE LAW vol 1(1) (2001 Reissue) paras 69 et seq, 159 et seq. As to billing authorities see para 229 ante.

'Prescribed' means prescribed by regulations made by the Secretary of State (or by the Welsh Ministers, as the case may be): s 116(1). As to the Secretary of State and the Welsh Ministers, and as to the making of regulations under the Local Government Finance Act 1992 generally, see para 228 ante. As to the regulations made under s 8(1) see the Council Tax (Liability for Owners) Regulations 1992, SI 1992/551 (amended by SI 1993/151; SI 1995/620; SI 1997/74; in relation to England by SI 2000/537; SI 2003/3125; and in relation to Wales by SI 2000/1024; SI 2004/2920), which prescribe the following classes of chargeable dwellings for the purposes of the Local Government Finance Act 1992 s 8(1):

(a) Class A: Residential care homes, etc (see the Council Tax (Liability for Owners) Regulations 1992, SI 1992/551, reg 2 Class A (substituted in relation to England by SI 2003/3125; and in relation to Wales by SI 2004/2920));

(b) Class B: Dwellings inhabited by religious communities (see the Council Tax (Liability for Owners) Regulations 1992, SI 1992/551, reg 2 Class B);

(c) Class C: Houses in multiple occupation, etc (see reg 2 Class C (substituted by SI 1993/151; amended by SI 1995/620));

(d) Class D: Dwellings inhabited by resident staff (see the Council Tax (Liability for Owners) Regulations 1992, SI 1992/551, reg 2 Class D);

(e) Class E: Dwellings inhabited by ministers of religion (see reg 2 Class E);

(f) Class F: Dwellings provided to asylum seekers (see reg 2 Class F (added relation to England by SI 2000/537; and in relation to Wales by SI 2000/1024)).

As to head (a) supra, see *Henriques v Lambeth London Borough Council* [2007] EWHC 2974 (Admin), [2007] All ER (D) 295 (Nov) (evidence did not suggest that premises in which appellant had been residing was a residential care home and in any case was not a registered care home). As to head (c) supra, see *Hayes v Humberside Valuation Tribunal and Kingston upon Hull City Council* [1997] RA 236; affd [1998] RA 37, CA (test required no more than a consideration of whether dwelling was suitable for occupation by persons who did not constitute a single household); *UHU Property Trust v Lincoln City Council* [2000] RA 419 (valuation tribunal must look at the realities of the arrangements, not just at the written tenancy agreement); and *Hardy v Sefton Metropolitan Borough Council* [2006] EWHC 1928 (Admin), [2007] RA

140, [2006] All ER (D) 409 (Jul) (individuals, each having a tenancy agreement to occupy a named room within a certain rented property, did not constitute a single household; liability to council tax fell upon the owner).

At the date at which this volume states the law, no regulations had been made under the Local Government Finance Act 1992 s 8(2).

3 Regulations prescribing a class of chargeable dwellings for the purposes of ibid s 8(1) or s 8(2) (see note 2 supra) may provide that, in relation to any dwelling of that class, s 8(3) has effect as if for the reference to the owner of the dwelling there were substituted a reference to the person falling within such description as may be prescribed: s 8(6). Accordingly, in relation to a dwelling within the Council Tax (Liability for Owners) Regulations 1992, SI 1992/551, reg 2 Class C (as substituted and amended) (see note 2 head (c) supra), the Local Government Finance Act 1992 s 8(3) has effect as if, for the reference to the owner, there were substituted a reference to the person who has a relevant material interest which is not subject to a relevant material interest inferior to it, or, if there is no such person, the person who has a freehold interest in the whole or any part of the dwelling: Council Tax (Liability for Owners) Regulations 1992, SI 1992/551, reg 2A(1) (reg 2A added by SI 1993/151). For these purposes, 'relevant material interest' means a freehold or leasehold interest in the whole of the dwelling: Council Tax (Liability for Owners) Regulations 1992, SI 1992/551, reg 2A(2) (as so added). In relation to a dwelling within reg 2 Class E (see note 2 head (e) supra) where a minister of the Church of England is the inhabitant and the owner of the dwelling and is in receipt of a stipend, the Local Government Finance Act 1992 s 8(3) has effect as if, for the reference to the owner, there were substituted a reference to the diocesan board of finance of the diocese in which the dwelling is situated: Council Tax (Liability for Owners) Regulations 1992, SI 1992/551, reg 3 (amended by SI 1995/620). As to the Church of England see ECCLESIASTICAL LAW vol 14 para 313 et seq; and as to diocesan boards of finance see ECCLESIASTICAL LAW vol 14 paras 517–518.

4 As to council tax see para 227 et seq ante.

5 See the Local Government Finance Act 1992 s 8(3).

6 Ie where on any day two or more persons fall within ibid s 8(3) (see the text and notes 1–5 supra): see s 8(4).

7 Ibid s 8(4).

8 Ie by virtue of ibid s 11(5), Sch 1 para 2 (see para 249 post): see s 6(4) (as amended: see note 10 infra), applied by s 8(5).

9 Ie by virtue of ibid Sch 1 para 4 (see para 251 post): see s 6(4) (as amended: see note 10 infra), applied by s 8(5).

10 Ibid s 6(4) (amended by the Local Government Act 2003 s 74(1)), applied by the Local Government Finance Act 1992 s 8(5).

11 Ibid s 6(4)(a), applied by s 8(5).

12 Ibid s 6(4)(b), applied by s 8(5).

13 Ibid s 4(3), applied by s 8(7). At the date at which this volume states the law, no regulations had been made under s 8(7).

14 Ibid s 4(4), applied by s 8(7). See note 13 supra.

15 Ibid s 4(4)(a), applied by s 8(7). See note 13 supra.

16 Ibid s 4(4)(b), applied by s 8(7). See note 13 supra.

240. Liability of spouses. In circumstances where:

(1) a person who is liable to pay council tax[1] in respect of any chargeable dwelling[2] of which he is a resident[3] and any day is married to[4], or is the civil partner of[5], another person[6]; and

(2) that other person is also a resident of the dwelling on that day but would not, apart from this provision, be so liable[7],

those persons are each jointly and severally liable to pay the council tax in respect of the dwelling and that day[8]. However, this provision as to liability[9] does not apply as respects any day on which the other person there mentioned falls to be disregarded for the purposes of discount, either on grounds of severe mental impairment[10] or owing to their status as a student, apprentice or trainee[11].

1 As to council tax see para 227 et seq ante; and as to persons liable to pay council tax see paras 237–239 ante.

2 For the meaning of 'chargeable dwelling' see para 233 ante; and for the meaning of 'dwelling' see para 232 ante.

3 For the meaning of 'resident' see para 237 note 4 ante.
4 For these purposes, two persons are married to each other if they are a man and a woman:
(1) who are married to each other (Local Government Finance Act 1992 s 9(3)(a)); or
(2) who are not married to each other but are living together as husband and wife (s 9(3)(b)).
5 For these purposes, two persons are civil partners of each other if they are of the same sex and either:
(1) they are civil partners of each other (ibid s 9(4)(a) (s 9(4) added by the Civil Partnership Act 2004 s 261(1), Sch 27 para 140(2))); or
(2) they are not civil partners of each other but are living together as if they were civil partners (Local Government Finance Act 1992 s 9(4)(b) (as so added)).
6 Ibid s 9(1)(a) (amended by the Civil Partnership Act 2004 Sch 27 para 140(1)).
7 Local Government Finance Act 1992 s 9(1)(b).
8 Ibid s 9(1). See *Gardiner v Swindon Borough Council* [2003] EWHC 515 (Admin), [2003] RVR 242, [2003] All ER (D) 355 (Feb).
9 Ie the Local Government Finance Act 1992 s 9(1) (as amended) (see the text and notes 1–8 supra): see s 9(2) (as amended: see note 11 infra).
10 Ie by virtue of ibid s 11(5), Sch 1 para 2 (see para 249 post): see s 9(2) (as amended: see note 11 infra).
11 Ibid s 9(2) (amended by the Local Government Act 2003 s 74(2)). The text refers to a student, apprentice or trainee being disregarded for the purposes of discount by virtue of the Local Government Finance Act 1992 Sch 1 para 4 (see para 251 post): see s 9(2) (as so amended).

241. Death of persons liable. The Secretary of State (or the Welsh Ministers, as the case may be)[1] may make such regulations[2] as he or they think fit to deal with any case where a person dies, and at any time before his death[3]:

(1) he was (or is alleged to have been) liable to pay council tax through his residence in or ownership of a chargeable dwelling[4];
(2) he was (or is alleged to have been) so liable, as spouse or civil partner[5]; or
(3) a penalty was imposed[6] on him[7].

The regulations may:

(a) provide that where, before his death, a sum has become payable by the deceased but has not been paid, his executor or administrator is liable to pay the sum and may deduct out of the assets and effects of the deceased any payments made (or to be made)[8];
(b) provide that where, before his death, a sum in excess of his liability has been paid (whether the excess arises because of his death or otherwise) and has not been repaid or credited, his executor or administrator is entitled to the sum[9];
(c) provide for the recovery of any sum which is payable under the regulations and is not paid[10];
(d) provide that proceedings (whether by way of appeal or otherwise) may be instituted, continued or withdrawn by the deceased's executor or administrator[11].

1 As to the Secretary of State and the Welsh Ministers see para 228 ante.
2 As to the making of regulations under the Local Government Finance Act 1992 generally see para 228 ante. As to the regulations so made see note 5 infra.
3 Local Government Finance Act 1992 s 18(1).
4 Ibid s 18(1)(a). The text refers to liability under s 6 (as amended) (see para 237 ante), s 7 (see para 238 ante) or s 8 (see para 239 ante): see s 18(1)(a). For the meaning of 'chargeable dwelling' see para 233 ante; and for the meaning of 'dwelling' see para 232 ante.
5 Ibid s 18(1)(b) (amended by the Civil Partnership Act 2004 s 261(1), Sch 27 para 140(3)). The text refers to liability under the Local Government Finance Act 1992 s 9 (as amended) (see para 240 ante): see s 18(1)(b) (as so amended). As to regulations made under the powers conferred by s 18(1)(b) see the Council Tax (Civil Partners) (England) Regulations 2005, SI 2005/2866, which are amending provisions.
6 Ie under the Local Government Finance Act 1992 s 14(2), Sch 3 para 1 (see para 308 post): see s 18(1)(c).
7 Ibid s 18(1)(c). Nothing in s 18(3)–(6) (see the text and notes 8–11 infra) prejudices the generality of s 18(1) (as amended): s 18(2).
8 Ibid s 18(3).
9 Ibid s 18(4).

10 Ibid s 18(5).
11 Ibid s 18(6).

(iv) Exclusion of Crown Exemption

242. Exclusion of Crown exemption in certain cases. In the case of a dwelling[1] provided and maintained by an authority mentioned in any of heads (1) to (7) below for purposes connected with the administration of justice, police purposes or other Crown purposes[2], any rules as to Crown exemption which would have applied apart from this provision may not prevent either the dwelling being a chargeable dwelling[3] or any person being liable to pay council tax[4] in respect of the dwelling[5]. The authorities that are so excluded from such exemption are:

(1) a billing authority[6] other than the Council of the Isles of Scilly[7];
(2) a county council[8];
(3) the Greater London Authority[9];
(4) any functional body within the meaning of the Greater London Authority Act 1999[10];
(5) a police authority[11];
(6) the Receiver for the Metropolitan Police District[12];
(7) the Residuary Body for Wales ('Corff Gweddilliol Cymru')[13].

The Secretary of State (or the Welsh Ministers, as the case may be)[14] may by order[15] provide that the provisions excluding Crown exemption[16] are also to apply in relation to any dwelling of a class prescribed by the order[17]. For these purposes, a class of dwellings may be prescribed by reference to such factors as the Secretary of State (or the Welsh Ministers, as the case may be) sees fit[18]. In particular, a class of dwellings may be prescribed by reference to one or more of the following factors[19], namely:

(a) the physical characteristics of dwellings[20];
(b) the fact that dwellings are unoccupied or are occupied for prescribed purposes or are occupied or owned by persons of prescribed descriptions[21].

1 For the meaning of 'dwelling' see para 232 ante.
2 See the Local Government Finance Act 1992 s 19(1).
3 Ibid s 19(2)(a). For the meaning of 'chargeable dwelling' see para 233 ante.
4 As to council tax see para 227 et seq ante; and as to persons liable to pay council tax see paras 237–239 ante.
5 Local Government Finance Act 1992 s 19(2)(b).
6 As to billing authorities see para 229 ante.
7 Local Government Finance Act 1992 s 19(3)(a).
8 Ibid s 19(3)(b). As to local government areas and authorities in England and Wales and their councils generally see LOCAL GOVERNMENT vol 29(1) (Reissue) para 25 et seq.
9 Ibid s 19(3)(bb) (s 19(3)(bb), (bc) added by the Greater London Authority Act 1999 s 137). As to the Greater London Authority see LONDON GOVERNMENT vol 29(2) (Reissue) para 79 et seq.
10 Local Government Finance Act 1992 s 19(3)(bc) (as added: see note 9 supra). As to what constitutes a functional body within the meaning of the Greater London Authority Act 1999 see LONDON GOVERNMENT vol 29(2) (Reissue) para 213 et seq.
11 Local Government Finance Act 1992 s 19(3)(c) (substituted by the Police and Magistrates' Courts Act 1994 s 43, Sch 4 Pt I para 45; amended by the Police Act 1996 s 103(1), Sch 7 Pt I para 1(1), (2)(zf); and the Police Act 1997 s 134(1), Sch 9 para 66). Head (5) in the text refers to a police authority established under the Police Act 1996 s 3 (see POLICE vol 36(1) (2007 Reissue) para 139 et seq): see the Local Government Finance Act 1992 s 19(3)(c) (as so substituted and amended).
12 Ibid s 19(3)(e) (amended by the Police and Magistrates' Courts Act 1994 s 93, Sch 9 Pt I). As from a day to be appointed under the Greater London Authority Act 1999 s 425(2), the Local Government Finance Act 1992 s 19(3)(e) (as amended) is repealed by the Greater London Authority Act 1999 s 423, Sch 34 Pt I. However, at the date at which this volume states the law, no such day had been appointed.
13 Local Government Finance Act 1992 s 19(3)(g) (added by the Local Government (Wales) Act 1994 s 39(2), Sch 13 para 33). The Residuary Body for Wales has been wound up and abolished: see LOCAL GOVERNMENT vol 29(1) (Reissue) para 18.

14 As to the Secretary of State and the Welsh Ministers see para 228 ante.
15 As to the making of orders under the Local Government Finance Act 1992 generally see para 228 ante. At the date at which this volume states the law no such order had been made under the Local Government Finance Act 1992 s 19(4).
16 Ie the Local Government Finance Act 1992 s 19(2) (see the text and notes 1–5 supra): see s 19(4).
17 Ibid s 19(4). See note 15 supra.
18 Ibid s 4(3), applied by s 19(5). See note 15 supra.
19 Ibid s 4(4), applied by s 19(5). See note 15 supra.
20 Ibid s 4(4)(a), applied by s 19(5). See note 15 supra.
21 Ibid s 4(4)(b), applied by s 19(5). See note 15 supra.

(3) AMOUNT OF COUNCIL TAX

(i) Basic Amount

243. Basic amounts payable. The amount of council tax[1] is set each year by the billing authority[2], and is the sum payable on a daily basis in respect of each dwelling[3].

Subject to the provisions regarding discounts and reduced amounts[4], a person who is liable to pay council tax[5] in respect of any chargeable dwelling[6] and any day must, as respects the dwelling and the day, pay to the billing authority for the area in which the dwelling is situated an amount calculated in accordance with the formula:

$$\frac{A}{D}$$

where A is the amount which, for the financial year[7] in which the day falls and for dwellings in the valuation band listed for the dwelling[8], has been set by the authority for its area or (as the case may be) the part of its area in which the dwelling is situated; and where D is the number of days in the financial year[9].

1 As to council tax see para 227 et seq ante.
2 As to billing authorities see para 229 ante. As to local government finance generally see LOCAL GOVERNMENT vol 29(1) (Reissue) para 514 et seq.
3 For the meaning of 'dwelling' see para 232 ante. For the purposes of the Local Government Finance Act 1992 Pt I (ss 1–69) (as amended) (see paras 228 et seq ante, 244 et seq post), the Secretary of State (or the Welsh Ministers, as the case may be) may make regulations containing rules for ascertaining in what part of a billing authority's area a dwelling is situated (whether situated in the area in fact or by virtue of regulations made under s 1(3) (see para 231 ante)): s 10(2). As to the Secretary of State and the Welsh Ministers, and as to the making of regulations under the Local Government Finance Act 1992 generally, see para 228 ante. As to the regulations so made in exercise of the powers conferred by s 10(2) (amongst other provisions: see also para 231 ante) see the Council Tax (Situation and Valuation of Dwellings) Regulations 1992, SI 1992/550, Pt II (regs 2–5) (amended by SI 1994/1747).
4 Ie subject to the Local Government Finance Act 1992 ss 11–13 (as amended) (see para 245 et seq post): see s 10(1).
5 As to persons liable to pay council tax see paras 237–239 ante.
6 For the meaning of 'chargeable dwelling' see para 233 ante.
7 For the meaning of 'financial year' see para 231 note 1 ante.
8 As to dwellings listed in a particular valuation band see para 244 note 5 post.
9 Local Government Finance Act 1992 s 10(1).

244. Different amounts for dwellings in different valuation bands. For the purposes of calculating liability for the council tax[1], dwellings[2] are categorised according to their value into different valuation bands; the amounts of council tax payable[3] in respect of dwellings situated in the same billing authority's[4] area (or the same part of such an area) and listed in different valuation bands[5] must be in the proportion specified[6].

The valuation bands for dwellings in England are[7]:

(1) valuation band A: values not exceeding £40,000[8];
(2) valuation band B: values exceeding £40,000 but not exceeding £52,000[9];
(3) valuation band C: values exceeding £52,000 but not exceeding £68,000[10];
(4) valuation band D: values exceeding £68,000 but not exceeding £88,000[11];
(5) valuation band E: values exceeding £88,000 but not exceeding £120,000[12];
(6) valuation band F: values exceeding £120,000 but not exceeding £160,000[13];
(7) valuation band G: values exceeding £160,000 but not exceeding £320,000[14];
(8) valuation band H: values exceeding £320,000[15].

The valuation bands for dwellings in Wales are[16]:

(a) valuation band A: values not exceeding £44,000[17];
(b) valuation band B: values exceeding £44,000 but not exceeding £65,000[18];
(c) valuation band C: values exceeding £65,000 but not exceeding £91,000[19];
(d) valuation band D: values exceeding £91,000 but not exceeding £123,000[20];
(e) valuation band E: values exceeding £123,000 but not exceeding £162,000[21];
(f) valuation band F: values exceeding £162,000 but not exceeding £223,000[22];
(g) valuation band G: values exceeding £223,000 but not exceeding £324,000[23];
(h) valuation band H: values exceeding £324,000 but not exceeding £424,000[24];
(i) valuation band I: values exceeding £424,000[25].

The Secretary of State (or the Welsh Ministers, as the case may be)[26] may by order[27], as regards financial years beginning on or after such date as is specified in the order:

(i) substitute another proportion for that which is for the time being effective for the above purposes[28]; or
(ii) substitute other valuation bands for those which are for the time being effective for the above purposes[29].

The Secretary of State (or the Welsh Ministers, as the case may be) may by regulations[30] make provision for the purpose of smoothing changes in council tax liability resulting from the coming into force in relation to a billing authority in England (or in Wales, as the case may be) of such an order[31]. Such regulations may, in particular:

(A) make provision about the circumstances in which changes are to be smoothed[32];
(B) make provision for changes to be smoothed over such one or more financial years as may be specified in the regulations[33];
(C) make provision for liability for any financial year to be determined in accordance with such rules as may be so specified, which may result in liability being the same as or different from what it would otherwise be[34].

Such regulations may make different provision for different financial years[35].

1 As to council tax see para 227 et seq ante.
2 For the meaning of 'dwelling' see para 232 ante.
3 Any reference in the Local Government Finance Act 1992 Pt I (ss 1–69) (as amended) (see paras 228 et seq ante, 245 et seq post) to an amount payable in respect of council tax for any financial year includes a reference to an amount payable in respect of council tax for any period falling within that year: s 69(2)(b). For the meaning of 'financial year' see para 231 note 1 ante.
4 As to billing authorities see para 229 ante.
5 Any reference in the Local Government Finance Act 1992 Pt I (ss 1–69) (as amended) to dwellings listed in a particular valuation band is to be construed as a reference to dwellings to which that valuation band is shown as applicable in the billing authority's valuation list: ss 5(6), 69(2)(a). As to valuation lists see para 268 et seq post.
6 Ibid s 5(1). In relation to dwellings situated in England, the specified proportion is as follows: 6:7:8:9:11:13:15:18, where 6 is for dwellings listed in valuation band A (see head (1) in the text), 7 is for dwellings listed in valuation band B (see head (2) in the text), and so on: see s 5(1). For the purposes of the application of s 5(1) to dwellings situated in Wales, for the purposes of financial years beginning on or after 1 April 2005, for the proportion specified in s 5(1) there is substituted the following proportion: 6:7:8:9:11:13:15:18:21: s 5(1A) (added by the Council Tax (Valuation Bands) (Wales) Order 2003, SI 2003/3046, art 2(1), (2)). For the meanings of 'England' and 'Wales' see para 1 note 2 ante.
7 Local Government Finance Act 1992 s 5(2).

8 See ibid s 5(2), Table.
9 See ibid s 5(2), Table.
10 See ibid s 5(2), Table.
11 See ibid s 5(2), Table.
12 See ibid s 5(2), Table.
13 See ibid s 5(2), Table.
14 See ibid s 5(2), Table.
15 See ibid s 5(2), Table.
16 Ibid s 5(3).
17 See ibid s 5(3), Table (Table substituted by the Council Tax (Valuation Bands) (Wales) Order 2003, SI 2003/3046, art 2(1), (3)).
18 See the Local Government Finance Act 1992 s 5(3), Table (Table as substituted: see note 17 supra).
19 See ibid s 5(3), Table (Table as substituted: see note 17 supra).
20 See ibid s 5(3), Table (Table as substituted: see note 17 supra).
21 See ibid s 5(3), Table (Table as substituted: see note 17 supra).
22 See ibid s 5(3), Table (Table as substituted: see note 17 supra).
23 See ibid s 5(3), Table (Table as substituted: see note 17 supra).
24 See ibid s 5(3), Table (Table as substituted: see note 17 supra).
25 See ibid s 5(3), Table (Table as substituted: see note 17 supra).
26 As to the Secretary of State and the Welsh Ministers see para 228 ante.
27 No such order may be made unless a draft of the order has been laid before and approved by resolution of the House of Commons: Local Government Finance Act 1992 s 5(5). As to the making of orders under the Local Government Finance Act 1992 generally see para 228 ante. As to the orders so made see note 29 infra.
28 Ibid s 5(4)(a). The text refers to the proportion which is for the time being effective for the purposes of s 5(1) (see the text and notes 1–6 supra): see s 5(4)(a).
29 Ibid s 5(4)(b). The text refers to the valuation bands which are for the time being effective for the purposes of s 5(2) (see the text and notes 7–15 supra) or s 5(3) (as amended) (see the text and notes 16–25 supra), as the case may be: see s 5(4)(b). The power under s 5(4)(b) includes power to make provision for a different number of valuation bands from those which are for the time being effective for the purposes of s 5(2) or 5(3) (as amended): s 5(4A) (added by the Local Government Act 2003 s 78). The Council Tax (Valuation Bands) (Wales) Order 2003, SI 2003/3046 (an amending provision as to which see notes 6, 17 supra), has been made in exercise of the powers conferred by the Local Government Finance Act 1992 s 5(4), s 5(4A) (as added).
30 As to the making of regulations under the Local Government Finance Act 1992 generally see para 228 ante. As to the regulations so made see note 31 infra.
31 See the Local Government Finance Act 1992 s 13B(1), (2) (s 13B added by the Local Government Act 2003 s 79). To the extent that he (or they) would not have power to do so apart from this provision, the Secretary of State (or the Welsh Ministers, as the case may be) may:
   (1) include in regulations made by him (or them) under the Local Government Finance Act 1992 s 13B (as added) such amendments of any social security instrument as he (or they) think expedient in consequence of the regulations (s 13B(5)(a) (as so added));
   (2) include in any social security instrument such provision as he (or they) think expedient in consequence of regulations under s 13B (as added) (s 13B(5)(b) (as so added)).

   For the meaning of 'social security instrument' for these purposes see para 257 note 29 post; definition applied by s 13B(6) (as so added). As to the regulations made in exercise of the powers conferred under s 13B(2) (as added) see the Council Tax (Transitional Arrangements) (Wales) Regulations 2004, SI 2004/3142 (amended by SI 2005/702), which make transitional arrangements for the period from 1 April 2005 to 31 March 2008 in relation to Wales.
32 Local Government Finance Act 1992 s 13B(3)(a) (as added: see note 31 supra).
33 Ibid s 13B(3)(b) (as added: see note 31 supra).
34 Ibid s 13B(3)(c) (as added: see note 31 supra).
35 Ibid s 13B(4) (as added: see note 31 supra). This provision is expressed to be without prejudice to s 113(1) (as amended) (see para 228 ante): see s 13B(4) (as so added).

(ii) Discounts

A. IN GENERAL

245. Discounts. The amount of council tax payable[1] in respect of any chargeable dwelling[2] and any day is subject to a discount equal to the appropriate percentage[3] of that amount if on that day[4]:

(1) there is only one resident[5] of the dwelling and he does not fall to be disregarded for the purposes of discount[6]; or

(2) there are two or more residents of the dwelling and each of them except one falls to be disregarded for those purposes[7].

Subject to the special provisions made for England and Wales[8], the amount of council tax payable in respect of any chargeable dwelling and any day is subject to a discount equal to twice the appropriate percentage of that amount if on that day[9]:

(a) there is no resident of the dwelling[10]; or

(b) there are one or more residents of the dwelling and each of them falls to be disregarded for the purposes of discount[11].

1 As to references to an amount payable in respect of council tax see para 244 note 3 ante. As to council tax see para 227 et seq ante.

2 For the meaning of 'chargeable dwelling' see para 233 ante; and for the meaning of 'dwelling' see para 232 ante.

3 For these purposes, 'appropriate percentage' means 25% or, if the Secretary of State (or the Welsh Ministers, as the case may be) by order so provides in relation to the financial year in which the day falls, such other percentage as is specified in the order: Local Government Finance Act 1992 s 11(3) (amended by the Local Government Act 2003 s 127(2), Sch 8 Pt 1). For the meaning of 'financial year' see para 231 note 1 ante. No order under the Local Government Finance Act 1992 s 11(3) (as amended) may be made unless a draft of the order has been laid before and approved by resolution of the House of Commons: s 11(4). As to the Secretary of State and the Welsh Ministers, and as to the making of orders under the Local Government Finance Act 1992 generally, see para 228 ante. At the date at which this volume states the law no such order had been made under s 11(3), (4) (s 11(3) as amended).

4 Ibid s 11(1).

5 For the meaning of 'resident' see para 237 note 4 ante. See *Bennett v Copeland Borough Council* [2004] EWCA Civ 672 at [33], [2004] RA 171 at [33] per Rix LJ (actual residence is critical to an understanding of the Local Government Finance Act 1992 s 11 (as amended)).

6 Local Government Finance Act 1992 s 11(1)(a). As to the persons to be disregarded for the purposes of discount see s 11(5), Sch 1 (as amended); and paras 248–256 post.

7 Ibid s 11(1)(b).

8 Ie subject to ibid s 11A (as added) (England) (see para 246 post) and s 12 (as substituted) (Wales) (see para 247 post): see s 11(2) (as amended: see note 9 infra). For the meanings of 'England' and 'Wales' see para 1 note 2 ante.

9 Ibid s 11(2) (amended by the Local Government Act 2003 s 127(1), Sch 7 paras 40, 41).

10 Local Government Finance Act 1992 s 11(2)(a).

11 Ibid s 11(2)(b).

246. Special provision for discounts where dwellings in England have no resident. The Secretary of State[1] may for any financial year[2] by regulations prescribe[3] one or more classes of dwelling[4] in England[5] for the purposes[6] of allowing a billing authority[7] in England by determination to provide in relation to all dwellings of that class in its area (or in such part of its area as it may specify in the determination) that the discount which applies to the amount payable in respect of council tax where there is no resident of the dwelling[8], either:

(1) is to be such lesser percentage of at least ten as it may so specify[9]; or

(2) does not apply[10] or is to be such lesser percentage as it may so specify[11].

For each financial year beginning on or after 1 April 2004, the following classes are prescribed as classes of dwellings for the purposes of head (1) above[12]:

(a) Class A: comprising every chargeable dwelling in England[13]:

(i) which is not the sole or main residence of an individual[14];

(ii) which is furnished[15]; and

(iii) the occupation of which is restricted by a planning condition preventing occupancy for a continuous period of at least 28 days in the relevant year[16];

except that the class of dwellings so described is not to include any dwelling which is excluded from that class by virtue of head (A) or head (B) below[17];

(b) Class B: comprising every chargeable dwelling in England[18]:
   (i) which is not the sole or main residence of an individual[19];
   (ii) which is furnished[20]; and
   (iii) the occupation of which is not restricted by a planning condition preventing occupancy for a continuous period of at least 28 days in the relevant year[21];

   except that the class of dwellings so described is not to include any dwelling which is excluded from that class by virtue of head (A) or head (B) below[22].

Neither Class A nor Class B is to include:

(A) any dwelling which consists of a pitch occupied by a caravan[23], or a mooring occupied by a boat[24]; or

(B) any dwelling where a qualifying person[25] in relation to that dwelling is a qualifying person in relation to another dwelling in England, Wales[26] or Scotland which for him is job-related[27], or which for a qualifying person is job-related where that person is a qualifying person in relation to another dwelling in England, Wales or Scotland[28].

For each financial year beginning on or after 1 April 2004, Class C is prescribed as a class of dwellings for the purposes of head (2) above[29], comprising every chargeable dwelling in England which is unoccupied[30], and which is substantially unfurnished[31].

A billing authority which makes such a determination[32] must publish a notice of it in at least one newspaper circulating in its area and do so before the end of the period of 21 days beginning with the date of the determination[33]. A billing authority may make a determination varying or revoking a determination[34] for a financial year, but only before the beginning of the year[35].

1 As to the Secretary of State see para 228 ante.
2 For the meaning of 'financial year' see para 231 note 1 ante.
3 'Prescribed' means prescribed by regulations made by the Secretary of State: Local Government Finance Act 1992 s 116(1). As to the making of regulations under the Local Government Finance Act 1992 generally see para 228 ante. As to the regulations so made see the text and notes 12–31 infra.
4 For the meaning of 'dwelling' see para 232 ante. A class of dwellings may be prescribed under the Local Government Finance Act 1992 s 11A(1) (as added) by reference to such factors as the Secretary of State sees fit and may, in particular, be prescribed by reference to:
   (1) the physical characteristics of dwellings (s 11A(2)(a) (s 11A added by the Local Government Act 2003 s 75(1))); or
   (2) the fact that dwellings are unoccupied (Local Government Finance Act 1992 s 11A(2)(b) (as so added)).
5 For the meaning of 'England' see para 1 note 2 ante.
6 See the Local Government Finance Act 1992 s 11A(1) (as added: see note 4 supra). The Secretary of State may prescribe regulations as mentioned in the text for the purposes set out in either s 11A(3) (as added) (see head (1) in the text) or s 11A(4) (as added) (see head (2) in the text): see s 11A(1) (as so added).
7 As to billing authorities see para 229 ante.
8 See the Local Government Finance Act 1992 s 11A(3), (4) (as added: see note 4 supra). The text refers to the discount under s 11(2)(a) (see para 245 ante): see s 11A(3), (4) (as so added). For the meaning of 'resident' see para 237 note 4 ante. As to references to an amount payable in respect of council tax see para 244 note 3 ante. As to council tax see para 227 et seq ante.
9 See ibid s 11A(3) (as added: see note 4 supra).
10 See ibid s 11A(4)(a) (as added: see note 4 supra).
11 See ibid s 11A(4)(b) (as added: see note 4 supra).
12 See the Council Tax (Prescribed Classes of Dwellings) (England) Regulations 2003, SI 2003/3011, reg 3(1).
13 Ibid reg 4. For the meaning of 'chargeable dwelling' see para 233 ante.
14 Ibid reg 4(a).
15 Ibid reg 4(b).
16 Ibid reg 4(c). For these purposes, 'relevant year' means the financial year for which a billing authority makes a determination under the Local Government Finance Act 1992 s 11A (as added) (see the text and notes 1–11 supra): Council Tax (Prescribed Classes of Dwellings) (England) Regulations 2003, SI 2003/3011, reg 2.

17 Ibid reg 4.
18 Ibid reg 5.
19 Ibid reg 5(a).
20 Ibid reg 5(b).
21 Ibid reg 5(c).
22 Ibid reg 5.
23 'Caravan' is to be construed in accordance with the Caravan Sites and Control of Development Act 1960 Pt I (ss 1–30) (as amended) (see TOWN AND COUNTRY PLANNING vol 46(3) (Reissue) para 1033): Council Tax (Prescribed Classes of Dwellings) (England) Regulations 2003, SI 2003/3011, reg 2.
24 Ibid reg 6(1).
25 For these purposes, 'qualifying person' means a person who is liable for the council tax in respect of a dwelling on a particular day (whether or not jointly with any other person) or who would be liable for the council tax in respect of a dwelling on a particular day if that dwelling did not fall within the Council Tax (Exempt Dwellings) Order 1992, SI 1992/558, art 3 Class O (as amended) (see para 235 ante), the Council Tax (Liability for Owners) Regulations 1992, SI 1992/551, reg 2 Class E (see para 239 ante) or the Scottish equivalents of those provisions: see the Council Tax (Prescribed Classes of Dwellings) (England) Regulations 2003, SI 2003/3011, reg 2 (definition substituted by SI 2004/926; amended by SI 2005/416).
26 For the meaning of 'Wales' see para 1 note 2 ante.
27 Council Tax (Prescribed Classes of Dwellings) (England) Regulations 2003, SI 2003/3011, reg 6(2)(a) (amended by SI 2005/416). For these purposes, a dwelling is job-related if it falls within the description set out in the Council Tax (Prescribed Classes of Dwellings) (England) Regulations 2003, SI 2003/3011, Schedule para 1 or Schedule para 2 (both amended by SI 2005/2866) or in the Council Tax (Prescribed Classes of Dwellings) (England) Regulations 2003, SI 2003/3011, Schedule para 2A (added by SI 2004/926; amended by SI 2005/2866): Council Tax (Prescribed Classes of Dwellings) (England) Regulations 2003, SI 2003/3011, reg 6(3) (substituted by SI 2004/926).
28 Council Tax (Prescribed Classes of Dwellings) (England) Regulations 2003, SI 2003/3011, reg 6(2)(b) (amended by SI 2005/416). For these purposes, a dwelling is job-related if it falls within the description set out in the Council Tax (Prescribed Classes of Dwellings) (England) Regulations 2003, SI 2003/3011, Schedule para 1 or Schedule para 2 (both as amended: see note 27 supra): reg 6(3) (as substituted: see note 27 supra).
29 Ibid reg 3(2).
30 Ibid reg 7(a). For these purposes, 'unoccupied dwelling' means a dwelling in which no-one lives: reg 2.
31 Ibid reg 7(b).
32 Ie under the Local Government Finance Act 1992 s 11A (as added) (see the text and notes 1–11 supra): see s 11A(6) (as added: see note 4 supra).
33 See ibid s 11A(6) (as added: see note 4 supra). However, failure to comply with s 11A(6) (as added) does not affect the validity of a determination: s 11A(7) (as so added).
34 Ie a determination under either ibid s 11A(3) (as added) (see head (1) in the text) or s 11A(4) (as added) (see head (2) in the text): see s 11A(5) (as added: see note 4 supra).
35 See ibid s 11A(5) (as added: see note 4 supra).

247. Special provision for discounts where dwellings in Wales have no resident. The Welsh Ministers[1] may for any financial year[2] by regulations prescribe[3] one or more classes of dwelling[4] in Wales[5] for the purposes[6] of allowing a billing authority[7] in Wales by determination to provide in relation to all dwellings of that class in its area (or in such part of its area as it may specify in the determination) that the discount which applies to the amount payable in respect of council tax where there is no resident of the dwelling[8], either:

(1) is to be such lesser percentage of at least ten as it may so specify[9]; or
(2) does not apply[10] or is to be such lesser percentage as it may so specify[11].

For each financial year beginning on or after 1 April 1998, the following classes are prescribed as classes of dwellings for the purposes of both heads (1) and (2) above[12]:

(a) Class A: comprising every dwelling in Wales[13]:
  (i) which is not the sole or main residence of an individual[14];
  (ii) which is furnished[15]; and
  (iii) the occupation of which is prohibited by law for a continuous period of at least 28 days in the relevant year[16];

except that the class of dwellings so described is not to include any dwelling which is excluded from that class by virtue of heads (A) to (C) below[17];

(b) Class B: comprising every dwelling in Wales[18]:
   (i) which is not the sole or main residence of an individual[19];
   (ii) which is furnished[20]; and
   (iii) the occupation of which is not prohibited by law for a continuous period of at least 28 days in the relevant year[21];

   except that the class of dwellings so described is not to include any dwelling which is excluded from that class by virtue of heads (A) to (C) below[22].

Neither Class A nor Class B is to include:

(A) any dwelling which consists of a pitch occupied by a caravan[23], or a mooring occupied by a boat[24]; or

(B) any unoccupied dwelling[25] in relation to which a person is a qualifying person[26] in his capacity as personal representative[27], if no person is a qualifying person in any other capacity[28], and either no grant of probate or of letters of administration has been made, or less than 12 months have elapsed since the day on which such a grant was made[29];

(C) any dwelling where a qualifying person in relation to that dwelling is a qualifying person in relation to another dwelling which for him is job-related[30].

For each financial year beginning on or after 1 April 2004, Class C is prescribed as a class of dwellings for the purposes of head (2) above only[31], comprising every chargeable dwelling in Wales which is unoccupied[32], and which is substantially unfurnished[33].

A billing authority which makes such a determination[34] must publish a notice of it in at least one newspaper circulating in its area and do so before the end of the period of 21 days beginning with the date of the determination[35]. A billing authority may make a determination varying or revoking a determination[36] for a financial year, but only before the beginning of the year[37].

1 As to the Welsh Ministers see para 228 ante.
2 For the meaning of 'financial year' see para 231 note 1 ante.
3 'Prescribed' means prescribed by regulations made by the Welsh Ministers: Local Government Finance Act 1992 s 116(1). As to the making of regulations under the Local Government Finance Act 1992 generally see para 228 ante. As to the regulations so made see the text and notes 12–33 infra.
4 For the meaning of 'dwelling' see para 232 ante. A class of dwellings may be prescribed under the Local Government Finance Act 1992 s 12(1) (as substituted) by reference to such factors as the Welsh Ministers see fit and may, in particular, be prescribed by reference to:
   (1) the physical characteristics of dwellings (s 12(2)(a) (s 12 substituted by the Local Government Act 2003 s 75(2))); or
   (2) the fact that dwellings are unoccupied (Local Government Finance Act 1992 s 12(2)(b) (as so substituted)).
5 For the meaning of 'Wales' see para 1 note 2 ante.
6 See the Local Government Finance Act 1992 s 12(1) (as substituted: see note 4 supra). The Welsh Ministers may prescribe regulations as mentioned in the text for the purposes set out in either s 12(3) (as substituted) (see head (1) in the text) or s 12(4) (as substituted) (see head (2) in the text): see s 12(1) (as so substituted).
7 As to billing authorities see para 229 ante.
8 See the Local Government Finance Act 1992 s 12(3), (4) (as substituted: see note 4 supra). The text refers to the discount under s 11(2)(a) (see para 245 ante): see s 12(3), (4) (as so substituted). For the meaning of 'resident' see para 237 note 4 ante. As to references to an amount payable in respect of council tax see para 244 note 3 ante. As to council tax see para 227 et seq ante.
9 See ibid s 12(3) (as substituted: see note 4 supra).
10 See ibid s 12(4)(a) (as substituted: see note 4 supra).
11 See ibid s 12(4)(b) (as substituted: see note 4 supra).
12 See the Council Tax (Prescribed Class of Dwellings) (Wales) Regulations 1998, SI 1998/105, reg 3(1) (renumbered by SI 2004/452).
13 Council Tax (Prescribed Class of Dwellings) (Wales) Regulations 1998, SI 1998/105, reg 4. For the meaning of 'chargeable dwelling' see para 233 ante.

14 Ibid reg 4(a).
15 Ibid reg 4(b).
16 Ibid reg 4(c). For these purposes, 'relevant year' means the financial year for which a billing authority makes a determination under the Local Government Finance Act 1992 s 12 (as substituted) (see the text and notes 1–11 supra): Council Tax (Prescribed Class of Dwellings) (Wales) Regulations 1998, SI 1998/105, reg 2.
17 Ibid reg 4.
18 Ibid reg 5.
19 Ibid reg 5(a).
20 Ibid reg 5(b).
21 Ibid reg 5(c).
22 Ibid reg 5.
23 'Caravan' is to be construed in accordance with the Caravan Sites and Control of Development Act 1960 Pt I (ss 1–30) (as amended) (see TOWN AND COUNTRY PLANNING vol 46(3) (Reissue) para 1033): Council Tax (Prescribed Class of Dwellings) (Wales) Regulations 1998, SI 1998/105, reg 2.
24 Ibid reg 6(1).
25 For these purposes, 'unoccupied dwelling' means a dwelling in which no-one lives: ibid reg 2.
26 For these purposes, 'qualifying person' means a person who is liable for the council tax in respect of a dwelling on a particular day (whether or not jointly with any other person): ibid reg 2.
27 Ibid reg 6(2).
28 Ibid reg 6(2)(a).
29 Ibid reg 6(2)(b).
30 Ibid reg 6(3). For these purposes, a dwelling is job-related if it falls within the description set out in either Schedule para 1 or Schedule para 2 (both amended by SI 2005/3302): Council Tax (Prescribed Class of Dwellings) (Wales) Regulations 1998, SI 1998/105, reg 6(4).
31 Ibid reg 3(2) (added by SI 2004/452; amended by SI 2004/3094).
32 Council Tax (Prescribed Class of Dwellings) (Wales) Regulations 1998, SI 1998/105, reg 5A(a) (reg 5A added by SI 2004/452).
33 Council Tax (Prescribed Class of Dwellings) (Wales) Regulations 1998, SI 1998/105, reg 5A(b) (as added: see note 32 supra).
34 Ie under the Local Government Finance Act 1992 s 12 (as substituted) (see the text and notes 1–11 supra): see s 12(6) (as substituted: see note 4 supra).
35 See ibid s 12(6) (as substituted: see note 4 supra). However, failure to comply with s 12(6) (as substituted) does not affect the validity of a determination: s 12(7) (as so substituted).
36 Ie a determination under either ibid s 12(3) (as substituted) (see head (1) in the text) or s 12(4) (as substituted) (see head (2) in the text): see s 12(5) (as substituted: see note 4 supra).
37 See ibid s 12(5) (as substituted: see note 4 supra).

B. PERSONS DISREGARDED FOR DISCOUNT

248. Persons in detention. A person is to be disregarded for the purposes of discounts which may be applied to the amount payable in respect of council tax on a particular day[1] if, on the day[2]:

(1) he is detained in a prison, a hospital or any other place by virtue of an order of a court[3] in the United Kingdom[4] or of a standing civilian court established under the Armed Forces Act 1976[5];
(2) he is detained under the Immigration Act 1971 pending deportation[6];
(3) he is detained under specified powers available under the Mental Health Act 1983[7].

The Secretary of State (or the Welsh Ministers, as the case may be)[8] may by order[9] provide that a person is to be disregarded for the purposes of discount on a particular day[10]:

(a) if, on the day he is imprisoned, detained or in custody under the Army Act 1955, the Air Force Act 1955 or the Naval Discipline Act 1957[11]; and
(b) if such conditions as may be prescribed by the order are fulfilled[12].

1 As to discounts applicable to an amount payable in respect of council tax see paras 245–247 ante. As to references to an amount payable in respect of council tax see para 244 note 3 ante. As to council tax see para 227 et seq ante.

2 Local Government Finance Act 1992 s 11(5), Sch 1 para 1(1).

3 See ibid Sch 1 para 1(1)(a). For these purposes, 'order' includes a sentence, direction, warrant or other means of giving effect to the decision of the court concerned: Sch 1 para 1(5).

As from a day to be appointed under the Armed Forces Act 2006 s 383(2), the Local Government Finance Act 1992 Sch 1 para 1(1)(a) is amended so that the words 'order of a court' are replaced by the words 'order or award': see the Local Government Finance Act 1992 Sch 1 para 1(1)(a) (prospectively amended by the Armed Forces Act 2006 s 378(1), Sch 16 para 123(1), (2)(a)). However, at the date at which this volume states the law, no such day had been appointed.

4 See the Local Government Finance Act 1992 Sch 1 para 1(1)(a), (2)(a). See notes 3 supra, 5 infra. For the meaning of 'United Kingdom' see para 127 note 20 ante.

5 See ibid Sch 1 para 1(1)(a), (2)(b). As to standing civilian courts see ARMED FORCES vol 2(2) (Reissue) para 520 et seq.

As from a day to be appointed under the Armed Forces Act 2006 s 383(2), the Local Government Finance Act 1992 Sch 1 para 1(2) is substituted so that Sch 1 para 1(2)(a) (see the text and note 4 supra) continues to refer to 'an order of a court in the United Kingdom' but so that Sch 1 para 1(2)(b) refers to 'an order or award (whether or not of a court) made (anywhere) in proceedings in respect of a service offence within the meaning of the Armed Forces Act 2006': see the Local Government Finance Act 1992 Sch 1 para 1(2)(b) (Sch 1 para 1(2) prospectively substituted by the Armed Forces Act 2006 Sch 16 para 123(1), (2)(b)). However, at the date at which this volume states the law, no such day had been appointed.

The Local Government Finance Act 1992 Sch 1 para 1(1) (as amended; prospectively further amended) does not apply where the person:

(1) is detained under regulations made under s 14(3), Sch 4 para 8 (prospectively amended) (see para 338 post) (Sch 1 para 1(4)(a)); or

(2) is detained under the Magistrates' Courts Act 1980 s 76 (as amended) (see MAGISTRATES) or under the Powers of Criminal Courts (Sentencing) Act 2000 s 108 (prospectively repealed) (see CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(4) (2006 Reissue) para 1596 et seq) for default in payment of a fine (Local Government Finance Act 1992 Sch 1 para 1(4)(b) (amended by the Powers of Criminal Courts (Sentencing) Act 2000 s 165(1), Sch 9 para 152)).

As from a day to be appointed under the Criminal Justice and Court Services Act 2000 s 80(1), the reference in head (2) supra to 's 108 (prospectively repealed)' is repealed: see the Local Government Finance Act 1992 Sch 1 para 1(4)(b) (as so amended; prospectively further amended by the Criminal Justice and Court Services Act 2000 s 75, Sch 8). However, at the date at which this volume states the law, no such day had been appointed.

If a person is temporarily discharged under the Prison Act 1952 s 28 (as amended) (power to discharge prisoners temporarily on account of ill health) (see PRISONS vol 36(2) (Reissue) para 528) or temporarily released under rules under s 47(5) (as amended) (power to release temporarily certain prisoners after conviction and sentencing) (see PRISONS vol 36(2) (Reissue) para 612) then, for the purposes of the Local Government Finance Act 1992 Sch 1 para 1(1) (prospectively amended) he is to be treated as detained: Sch 1 para 1(3)(a). As from a day to be appointed under the Armed Forces Act 2006 s 383(2), the Local Government Finance Act 1992 Sch 1 para 1(3)(aa) is added so that a person temporarily released under rules made under the Armed Forces Act 2006 s 300 is also to be treated as detained for these purposes: see the Local Government Finance Act 1992 Sch 1 para 1(3)(aa) (prospectively added by the Armed Forces Act 2006 Sch 16 para 123(1), (2)(c)). However, at the date at which this volume states the law, no such day had been appointed.

6 Local Government Finance Act 1992 Sch 1 para 1(1)(b). Head (2) in the text refers to detention under the Immigration Act 1971 s 5, Sch 3 para 2 (as amended) (see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) para 166): see the Local Government Finance Act 1992 Sch 1 para 1(1)(b).

7 Ibid Sch 1 para 1(1)(c). Head (3) in the text refers to detention under the Mental Health Act 1983 Pt II (ss 2–34) (as amended) (see MENTAL HEALTH vol 30(2) (Reissue) para 406 et seq) or s 46 (repealed), s 47 (as amended; prospectively further amended) (removal to hospital of persons serving sentences of imprisonment: see MENTAL HEALTH vol 30(2) (Reissue) para 535), s 48 (as amended; prospectively further amended) (removal to hospital of certain prisoners: see MENTAL HEALTH vol 30(2) (Reissue) para 536) or s 136 (mentally disordered persons found in public places) (prospectively amended) (see MENTAL HEALTH vol 30(2) (Reissue) para 550): see the Local Government Finance Act 1992 Sch 1 para 1(1)(c).

8 As to the Secretary of State and the Welsh Ministers see para 228 ante.

9 As to the making of orders under the Local Government Finance Act 1992 generally see para 228 ante. As to the order so made see note 12 infra.

10 Local Government Finance Act 1992 Sch 1 para 1(6).

11 Ibid Sch 1 para 1(6)(a).

As from a day to be appointed under the Armed Forces Act 2006 s 383(2), the Local Government Finance Act 1992 Sch 1 para 1(6)(a) is amended so that the words 'imprisoned, detained or in custody under the Army Act 1955, the Air Force Act 1955 or the Naval Discipline Act 1957' are replaced by the words 'in service custody': see the Local Government Finance Act 1992 Sch 1 para 1(6)(a) (prospectively amended by the Armed Forces Act 2006 Sch 16 para 123(1), (2)(d)). However, at the date at which this volume states the law, no such day had been appointed.

12 Local Government Finance Act 1992 Sch 1 para 1(6)(b). Accordingly, under Sch 1 para 1(6) (prospectively amended), a person is to be disregarded for the purposes of discount on a particular day if, on the day, he is imprisoned, detained or in custody under the Army Act 1955, the Air Force Act 1955 or the Naval Discipline Act 1957, and if the following conditions are fulfilled (Council Tax (Discount Disregards) Order 1992, SI 1992/548, art 2(1)), namely that, where the person is in custody under arrest:
   (1) he is not in custody under open arrest (art 2(2)(a)); and
   (2) the custody forms part of a continuous period exceeding 48 hours during which he is under arrest (art 2(2)(b)).

   A person is to be treated as in custody under open arrest for the purposes of art 2(2)(a) if he is so treated for the purposes of Queen's Regulations for the Navy, Army or Air Force: art 2(3). As to the Queen's Regulations see ARMED FORCES vol 2(2) (Reissue) para 5 et seq.

249. Severely mentally impaired persons. A person is to be disregarded for the purposes of discounts which may be applied to the amount payable in respect of council tax on a particular day[1]:

(1) if, on the day, he is severely mentally impaired[2];
(2) if, as regards any period which includes the day, he is stated in a certificate of a registered medical practitioner to have been or to be likely to be severely mentally impaired[3]; and
(3) if, as regards the day, he fulfils such conditions as may be prescribed by order made by the Secretary of State (or by the Welsh Ministers, as the case may be)[4].

1 Local Government Finance Act 1992 s 11(5), Sch 1 para 2(1). As to discounts applicable to an amount payable in respect of council tax see paras 245–247 ante. As to references to an amount payable in respect of council tax see para 244 note 3 ante. As to council tax see para 227 et seq ante.

2 Ibid Sch 1 para 2(1)(a). For these purposes, a person is severely mentally impaired if he has a severe impairment of intelligence and social functioning (however caused) which appears to be permanent: Sch 1 para 2(2). The Secretary of State (or the Welsh Ministers, as the case may be) may by order substitute another definition for the definition in Sch 1 para 2(2) as for the time being effective for the purposes of Sch 1 para 2: Sch 1 para 2(3). As to the Secretary of State and the Welsh Ministers, and as to the making of orders under the Local Government Finance Act 1992 generally, see para 228 ante. At the date at which this volume states the law, no such order had been made for the purposes of Sch 1 para 2(3).

3 Ibid Sch 1 para 2(1)(b).

4 Ibid Sch 1 para 2(1)(c). The condition so prescribed for the purposes of Sch 1 para 2(1)(c) is that the person in question is either entitled to one of the qualifying benefits, or that he meets the requirements, that are specified in the Council Tax (Discount Disregards) Order 1992, SI 1992/548, art 3 (amended by SI 1994/543; SI 1995/619; SI 1996/636; SI 1996/3143; SI 1997/656).

250. Persons in respect of whom child benefit is payable. A person is to be disregarded for the purposes of discounts which may be applied to the amount payable in respect of council tax on a particular day[1] if, on the day, he:[2]

(1) has attained the age of 18 years[3]; but
(2) is a person in respect of whom another person is (or would be[4]) entitled to child benefit[5].

1 As to discounts applicable to an amount payable in respect of council tax see paras 245–247 ante. As to references to an amount payable in respect of council tax see para 244 note 3 ante. As to council tax see para 227 et seq ante.

2 Local Government Finance Act 1992 s 11(5), Sch 1 para 3(1).

3 Ibid Sch 1 para 3(1)(a).

4 Ie but for the Social Security Contributions and Benefits Act 1992 s 144(2), Sch 9 para 1(c) (see SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) para 244): see the Local Government Finance Act 1992 Sch 1 para 3(1)(b). The Secretary of State (or the Welsh Ministers, as the case may be) may by order

substitute another provision for Sch 1 para 3(1)(b) as for the time being effective for the purposes of Sch 1 para 3: Sch 1 para 3(2). As to the Secretary of State and the Welsh Ministers, and as to the making of orders under the Local Government Finance Act 1992 generally, see para 228 ante. At the date at which this volume states the law no such order had been made for the purposes of Sch 1 para 3(2).

5 Ibid Sch 1 para 3(1)(b). As to child benefit generally see SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) para 237 et seq.

251. Students etc. A person is to be disregarded for the purposes of discounts which may be applied to the amount payable in respect of council tax on a particular day[1]:

(1) if, on the day he is a student, student nurse, apprentice or youth training trainee[2]; and

(2) if such conditions as may be prescribed by order made by the Secretary of State (or by the Welsh Ministers, as the case may be) are fulfilled[3].

An institution[4] must, on request, supply a certificate to any person who is following or[5] has followed a course of education at that institution as a student or student nurse[6]. Such a certificate must contain such information[7] about the person to whom it refers as may be prescribed by order made by the Secretary of State (or by the Welsh Ministers, as the case may be)[8]. An institution may refuse to comply with a request made more than one year after the person making it has ceased to follow a course of education at that institution[9].

1 Local Government Finance Act 1992 s 11(5), Sch 1 para 4(1). As to discounts applicable to an amount payable in respect of council tax see paras 245–247 ante. As to references to an amount payable in respect of council tax see para 244 note 3 ante. As to council tax see para 227 et seq ante.

2 Ibid Sch 1 para 4(1)(a). For these purposes, 'apprentice', 'student', 'student nurse' and 'youth training trainee' have the meanings for the time being assigned to them by order made by the Secretary of State (or by the Welsh Ministers, as the case may be): Sch 1 para 4(2). As to the Secretary of State and the Welsh Ministers, and as to the making of orders under the Local Government Finance Act 1992 generally, see para 228 ante. As to the order so made for the purposes of Sch 1 para 4 see the Council Tax (Discount Disregards) Order 1992, SI 1992/548, art 4 (amended by SI 1994/543; and in relation to Wales by SI 2003/673); and the definition of 'apprentice' given accordingly in the Council Tax (Discount Disregards) Order 1992, SI 1992/548, Sch 1 Pt I (para 1) (amended in relation to billing authorities in England by SI 2006/3396; and in relation to Wales by SI 2007/580); the definition of 'students' given in the Council Tax (Discount Disregards) Order 1992, SI 1992/548, Sch 1 Pt II (paras 2–6) (amended by SI 1995/619; SI 1996/636; and in relation to billing authorities in England by SI 2006/3396; in relation to Wales by SI 2007/580); the definition of 'student nurses' given in the Council Tax (Discount Disregards) Order 1992, SI 1992/548, Sch 1 Pt III (para 7) (amended by SI 2004/1771); and the definition of 'youth training' given in the Council Tax (Discount Disregards) Order 1992, SI 1992/548, Sch 1 Pt IV (para 8) (amended by SI 2006/3396; revoked in relation to Wales by SI 2003/673).

See *Southwark London Borough Council v Mohammed* [2006] EWHC 305 (Ch), [2006] RVR 124, a case in which a bankrupt contended that no council tax was payable by him for the whole of the disputed period, based primarily on the contention that he was in full-time education throughout that time.

3 Local Government Finance Act 1992 Sch 1 para 4(1)(b). At the date at which this volume states the law no such order had been made for the purposes of Sch 1 para 4(1)(b).

4 Ie any such educational establishment or other body as may be prescribed by order made by the Secretary of State (or by the Welsh Ministers, as the case may be): see ibid Sch 1 para 5(4). For these purposes, the bodies so prescribed are those defined as prescribed educational establishments, in the case of students, in the Council Tax (Discount Disregards) Order 1992, SI 1992/548, art 5(2), Sch 2 Pt I (paras 1–3) (amended by virtue of the Education Act 2005 s 74; and by SI 1995/619; in relation to billing authorities in England by SI 2006/3396; and in relation to Wales by SI 2007/580) and, in the case of student nurses, in the Council Tax (Discount Disregards) Order 1992, SI 1992/548, Sch 2 Pt II (para 4), but excluding, in either case, any establishment situated in Scotland: see art 5(2).

5 Ie subject to the Local Government Finance Act 1992 Sch 1 para 5(3) (see the text and note 9 infra): see Sch 1 para 5(1).

6 Ibid Sch 1 para 5(1). 'Student' and 'student nurse' have the same meanings as in Sch 1 para 4 (see note 2 supra): see Sch 1 para 5(4).

7 As to the meaning of 'information' see para 228 note 23 ante.

8 Local Government Finance Act 1992 Sch 1 para 5(2). Accordingly, for the purposes of Sch 1 para 5(2), the information prescribed to be contained in a certificate is:

(1) the name and address of the prescribed educational establishment by whom the certificate is issued (Council Tax (Discount Disregards) Order 1992, SI 1992/548, art 5(1)(a));
(2) the full name of the person to whom it is issued (art 5(1)(b));
(3) his date of birth (where this is known to the establishment and where the person is to be regarded as a person undertaking a qualifying course of education by Sch 1 Pt II para 5 (see note 2 supra)) (art 5(1)(c));
(4) a statement certifying that he is following or has followed a course of education as a student or, as the case may be, a student nurse (art 5(1)(d));
(5) the date when the person became a student or a student nurse at the establishment and the date when his course has come or is expected to come to an end (art 5(1)(e)).

9 Local Government Finance Act 1992 Sch 1 para 5(3).

252. Hospital patients. A person is to be disregarded for the purposes of discounts which may be applied to the amount payable in respect of council tax on a particular day[1] if, on the day, he is a patient who has his sole or main residence in a hospital[2].

1 As to discounts applicable to an amount payable in respect of council tax see paras 245–247 ante. As to references to an amount payable in respect of council tax see para 244 note 3 ante. As to council tax see para 227 et seq ante.

2 Local Government Finance Act 1992 s 11(5), Sch 1 para 6(1). For these purposes, 'hospital' means:
(1) a health service hospital within the meaning of the National Health Service Act 2006 or the National Health Service (Wales) Act 2006 (see NATIONAL HEALTH SERVICE) (Local Government Finance Act 1992 Sch 1 para 6(2)(a) (amended by the National Health Service (Consequential Provisions) Act 2006 s 2, Sch 1 paras 151, 152)); and
(2) a military, air-force or naval unit or establishment at or in which medical or surgical treatment is provided for persons subject to military law, air-force law or the Naval Discipline Act 1957 (see ARMED FORCES) (Local Government Finance Act 1992 Sch 1 para 6(2)(b)).

As from a day to be appointed under the Armed Forces Act 2006 s 383(2), the words 'subject to military law, air-force law or the Naval Discipline Act 1957' in head (2) supra are replaced by 'subject to service law within the meaning of the Armed Forces Act 2006': see the Local Government Finance Act 1992 Sch 1 para 6(2)(b) (prospectively amended by the Armed Forces Act 2006 s 378(1), Sch 16 para 123(1), (3)). At the date at which this volume states the law, no such day had been appointed.

The Secretary of State (or by the Welsh Ministers, as the case may be) may by order substitute another definition for the definition in the Local Government Finance Act 1992 Sch 1 para 6(2) (as amended; prospectively further amended) as for the time being effective for the purposes of Sch 1 para 6 (as amended; prospectively further amended): Sch 1 para 6(3). As to the Secretary of State and the Welsh Ministers, and as to the making of orders under the Local Government Finance Act 1992 generally, see para 228 ante. However, at the date at which this volume states the law, no such order had been made for those purposes.

253. Patients in homes in England and Wales. A person is to be disregarded for the purposes of discounts which may be applied to the amount payable in respect of council tax on a particular day[1] if, on the day[2]:

(1) he has his sole or main residence in a care home[3], independent hospital[4] or hostel[5] in England and Wales[6]; and
(2) he is receiving care or treatment (or both) in the home, hospital or hostel[7].

1 As to discounts applicable to an amount payable in respect of council tax see paras 245–247 ante. As to references to an amount payable in respect of council tax see para 244 note 3 ante. As to council tax see para 227 et seq ante.

2 Local Government Finance Act 1992 s 11(5), Sch 1 para 7(1).

3 For these purposes, 'care home' means:
(1) a care home within the meaning of the Care Standards Act 2000 (see SOCIAL SERVICES AND COMMUNITY CARE vol 44(2) (Reissue para 1042 et seq) (Local Government Finance Act 1992 Sch 1 para 7(2)(a) (Sch 1 para 7(2) substituted by the Care Standards Act 2000 s 116, Sch 4 para 20(c))); or
(2) a building or part of a building in which residential accommodation is provided under the National Assistance Act 1948 s 21 (as amended) (see SOCIAL SERVICES AND COMMUNITY CARE vol 44(2) (Reissue para 1029 et seq) (Local Government Finance Act 1992 Sch 1 para 7(2)(b) (as so substituted)).

The Secretary of State (or the Welsh Ministers, as the case may be) may by order substitute another definition for any definition of 'care home' for the time being effective for the purposes of Sch 1 para 7 (as amended): Sch 1 para 7(3) (amended by the Care Standards Act 2000 Sch 4 para 20(d)). However, at the date at which this volume states the law, no such order had been made for those purposes. As to the Secretary of State and the Welsh Ministers, and as to the making of orders under the Local Government Finance Act 1992 generally, see para 228 ante.

See *Bogdal v Kingston upon Hull City Council* [1998] RA 45 (whether unregistered home was fairly treated as a domestic home rather than a care home).

4 For these purposes, 'independent hospital' has the same meaning as in the Care Standards Act 2000 (see SOCIAL SERVICES AND COMMUNITY CARE): Local Government Finance Act 1992 Sch 1 para 7(2) (as substituted: see note 3 supra). The Secretary of State (or the Welsh Ministers, as the case may be) may by order substitute another definition for any definition of 'independent hospital' for the time being effective for the purposes of Sch 1 para 7 (as amended): Sch 1 para 7(3) (as amended: see note 3 supra). However, at the date at which this volume states the law, no such order had been made for those purposes.

5 For these purposes, 'hostel' means anything which falls within any definition of hostel for the time being prescribed by order made by the Secretary of State (or by the Welsh Ministers, as the case may be) under ibid Sch 1 para 7(2) (as substituted): Sch 1 para 7(2) (as substituted: see note 3 supra). Accordingly, for the purposes of Sch 1 para 7 (as substituted), 'hostel' means:

(1) premises approved under the Criminal Justice and Court Services Act 2000 s 9(1) (prospectively repealed) (accommodation provided for persons granted bail or for the supervision or rehabilitation of persons convicted of offences) (see CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(4) (2006 Reissue) para 1834) (Council Tax (Discount Disregards) Order 1992, SI 1992/548, art 6(a) (art 6 substituted in relation to England by SI 2003/3121; and in relation to Wales by SI 2004/2921)); or

(2) a building or part of a building: (a) which is solely or mainly used for the provision of residential accommodation in other than separate and self-contained sets of premises, together with personal care, for persons who require such personal care by reason of old age, disablement, past or present alcohol or drug dependence or past or present mental disorder (Council Tax (Discount Disregards) Order 1992, SI 1992/548, art 6(b)(i) (as so substituted)); and (b) which is not a care home or independent hospital for the purposes of the Local Government Finance Act 1992 Sch 1 para 7 (as amended) (Council Tax (Discount Disregards) Order 1992, SI 1992/548, art 6(b)(ii) (as so substituted)).

6 Local Government Finance Act 1992 Sch 1 para 7(1)(a) (amended by the Care Standards Act 2000 Sch 4 para 20(a)). For the meanings of 'England' and 'Wales' see para 1 note 2 ante. As to patients in homes in Scotland see the Local Government Finance Act 1992 Sch 1 para 8 (amended by the Regulation of Care (Scotland) Act 2001 s 79, Sch 3 para 18; and the Mental Health (Care and Treatment) (Scotland) Act 2003 (Modification of Enactments) Order 2005, SSI 2005/465, art 2, Sch 1 para 22(1), (2)(b)).

7 Local Government Finance Act 1992 Sch 1 para 7(1)(b) (amended by the Care Standards Act 2000 Sch 4 para 20(b)).

254. Care workers. A person is to be disregarded for the purposes of discounts which may be applied to the amount payable in respect of council tax on a particular day[1]:

(1) if, on the day, he is engaged in providing care or support (or both) to another person or other persons[2]; and

(2) if such conditions as may be prescribed[3] are fulfilled[4].

Without prejudice to the generality of head (2) above, the conditions may:

(a) require the care or support (or both) to be provided on behalf of a charity or a person fulfilling some other description[5];

(b) relate to the period for which the person is engaged in providing care or support (or both)[6];

(c) require his income for a prescribed period (which contains the day concerned) not to exceed a prescribed amount[7];

(d) require his capital not to exceed a prescribed amount[8];

(e) require him to be resident in prescribed premises[9];

(f) require him not to exceed a prescribed age[10];

(g) require the other person or persons to fulfil a prescribed description (whether relating to age, disablement or otherwise)[11].

1 Local Government Finance Act 1992 s 11(5), Sch 1 para 9(1). As to discounts applicable to an amount payable in respect of council tax see paras 245–247 ante. As to references to an amount payable in respect of council tax see para 244 note 3 ante. As to council tax see para 227 et seq ante.
2 Ibid Sch 1 para 9(1)(a).
3 'Prescribed' means prescribed by regulations made by the Secretary of State (or by the Welsh Ministers, as the case may be): ibid s 116(1). As to the Secretary of State and the Welsh Ministers, and as to the making of regulations under the Local Government Finance Act 1992 generally, see para 228 ante. The condition so prescribed for the purposes of Sch 1 para 9 is that, on the day in question, the person fulfils either the requirements set out in the Council Tax (Additional Provisions for Discount Disregards) Regulations 1992, SI 1992/552, reg 2, Schedule Pt I (paras 1–2) (Schedule para 1 amended in relation to England by SI 2006/3395; and in relation to Wales by SI 2007/581) or those set out in the Council Tax (Additional Provisions for Discount Disregards) Regulations 1992, SI 1992/552, Schedule Pt II (paras 3–4) (amended by SI 1994/540; SI 1996/637; and in relation to England by SI 2005/2866; in relation to Wales by SI 2005/3302).
4 Local Government Finance Act 1992 Sch 1 para 9(1)(b).
5 Ibid Sch 1 para 9(2)(a). See note 3 supra.
6 Ibid Sch 1 para 9(2)(b). See note 3 supra.
7 Ibid Sch 1 para 9(2)(c). See note 3 supra.
8 Ibid Sch 1 para 9(2)(d). See note 3 supra.
9 Ibid Sch 1 para 9(2)(e). See note 3 supra.
10 Ibid Sch 1 para 9(2)(f). See note 3 supra.
11 Ibid Sch 1 para 9(2)(g). See note 3 supra.

255. Residents of certain dwellings. A person is to be disregarded for the purposes of discounts which may be applied to the amount payable in respect of council tax on a particular day[1] if, on the day, he has his sole or main residence in a dwelling[2]:

(1) which is for the time being providing residential accommodation, whether as a hostel or night shelter or otherwise[3]; and
(2) if the accommodation is predominantly provided: (a) otherwise than in separate and self-contained sets of premises[4]; (b) for persons of no fixed abode and no settled way of life[5]; and (c) under licences to occupy which do not constitute tenancies[6].

1 As to discounts applicable to an amount payable in respect of council tax see paras 245–247 ante. As to references to an amount payable in respect of council tax see para 244 note 3 ante. As to council tax see para 227 et seq ante.
2 Local Government Finance Act 1992 s 11(5), Sch 1 para 10(1). For the meaning of 'dwelling' see para 232 ante.
3 Ibid Sch 1 para 10(1), (2)(a).
4 Ibid Sch 1 para 10(1), (2)(b)(i).
5 Ibid Sch 1 para 10(1), (2)(b)(ii).
6 Ibid Sch 1 para 10(1), (2)(b)(iii).

256. Persons of other descriptions. A person is to be disregarded for the purposes of discounts which may be applied to the amount payable in respect of council tax on a particular day[1]:

(1) if, on the day, he falls within such description as may be prescribed[2]; and
(2) such conditions as may be prescribed are fulfilled[3].

1 Local Government Finance Act 1992 s 11(5), Sch 1 para 11. As to discounts applicable to an amount payable in respect of council tax see paras 245–247 ante. As to references to an amount payable in respect of council tax see para 244 note 3 ante. As to council tax see para 227 et seq ante.
2 Ibid Sch 1 para 11(a). 'Prescribed' means prescribed by regulations made by the Secretary of State (or by the Welsh Ministers, as the case may be): s 116(1). As to the Secretary of State and the Welsh Ministers, and as to the making of regulations under the Local Government Finance Act 1992 generally, see para 228 ante. The descriptions so prescribed for the purposes of Sch 1 para 11, and the conditions to be fulfilled in respect of those descriptions on a particular day (see head (2) in the text), are that a person is within one of the following classes (Council Tax (Additional Provisions for Discount Disregards) Regulations 1992, SI 1992/552, reg 3(1)):
   (1) Class A: a member or a dependant of a member (within the meanings given by the International

Headquarters and Defences Organisations Act 1964 s 1(2), Schedule) of a headquarters or organisation which is on that day the subject of a designation by an Order in Council under s 1 (see ARMED FORCES vol 2(2) (Reissue) para 150) (see the Council Tax (Additional Provisions for Discount Disregards) Regulations 1992, SI 1992/552, reg 3(1) Class A);

(2) Class B: a person who is a member of a religious community, the principal occupation of which consists of prayer, contemplation, education, the relief of suffering (or any combination of these) and who has no income or capital of his own (disregarding any income by way of a pension in respect of former employment) and is dependent on the community to provide for his material needs (see reg 3(1) Class B);

(3) Class C: a person who is under the age of 20 and has within a relevant period ceased to undertake a qualifying course of education or a full-time course of education (see reg 3(1) Class C (substituted by SI 1993/149));

(4) Class D: a person who has a relevant association (within the meaning of the Visiting Forces Act 1952 Pt I (ss 1–12) (as amended): see para 235 note 61 ante) with a body, contingent or detachment of the forces of a country, to which any provision in Pt I (as amended) applies on that day (see ARMED FORCES vol 2(2) (Reissue) para 137 et seq) (see the Council Tax (Additional Provisions for Discount Disregards) Regulations 1992, SI 1992/552, reg 3(1) Class D (added by SI 1992/2942));

(5) Class E: a person who is the spouse or civil partner or dependant of a student within the meaning of the Local Government Finance Act 1992 Sch 1 para 4 (see para 251 ante), and is not a British citizen, and who is prevented (by the terms of his leave to enter or remain in the United Kingdom) from taking paid employment or from claiming benefits (see the Council Tax (Additional Provisions for Discount Disregards) Regulations 1992, SI 1992/552, reg 3(1) Class E (added by SI 1995/620; amended in relation to England by SI 2005/2866; in relation to Wales by SI 2005/3302));

(6) Class F: a person who is:

(a) a person on whom privileges and immunities are conferred by the Diplomatic Privileges Act 1964 (see FOREIGN RELATIONS LAW vol 18(2) (Reissue) para 881) (Council Tax (Additional Provisions for Discount Disregards) Regulations 1992, SI 1992/552, reg 3(1) Class F para (a) (Class F added by SI 1997/657)); or

(b) a person on whom privileges and immunities are conferred under the Commonwealth Secretariat Act 1966 s 1(2), Schedule Pt II para 5(1) (as amended) (staff of the Secretariat) (see COMMONWEALTH vol 6 (2003 Reissue) para 722) (Council Tax (Additional Provisions for Discount Disregards) Regulations 1992, SI 1992/552, reg 3(1) Class F para (b) (as so added));

(c) a person on whom privileges and immunities are conferred by the Consular Relations Act 1968 s 1 (as amended) (see FOREIGN RELATIONS LAW vol 18(2) (Reissue) para 896 et seq) (Council Tax (Additional Provisions for Discount Disregards) Regulations 1992, SI 1992/552, reg 3(1) Class F para (c) (as so added)); or

(d) in relation to any organisation specified in an Order in Council made under the International Organisations Act 1968 s 1(2), within a class of persons mentioned in s 1(3) to which the relevant Order extended relief from rates as specified in Sch 1 Pt II para 9 (as amended) (see FOREIGN RELATIONS LAW vol 18(2) (Reissue) para 922) (Council Tax (Additional Provisions for Discount Disregards) Regulations 1992, SI 1992/552, reg 3(1) Class F para (d) (as so added)); or

(e) a person on whom privileges and immunities are conferred by the Commonwealth Countries and Republic of Ireland (Immunities and Privileges) Order 1985, SI 1985/1983, arts 3–4 (see COMMONWEALTH vol 6 (2003 Reissue) para 724) (Council Tax (Additional Provisions for Discount Disregards) Regulations 1992, SI 1992/552, reg 3(1) Class F para (e) (as so added)); or

(f) the head of any office established as described in the Hong Kong Economic Trade Act 1996 s 1(1) (Council Tax (Additional Provisions for Discount Disregards) Regulations 1992, SI 1992/552, reg 3(1) Class F para (f) (as so added));

and is not:

(i) a British citizen, a British overseas territories citizen, a British national (overseas) or a British overseas citizen (reg 3(1) Class F para (i) (as so added; amended by virtue of the British Overseas Territories Act 2002 s 2(3))); or

(ii) a person who under the British Nationality Act 1981 is a British subject (see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) paras 9, 66–71) (Council Tax (Additional Provisions for Discount Disregards) Regulations 1992, SI 1992/552, reg 3(1) Class F para (ii) (as so added)); or

(iii) a British protected person (within the meaning of the British Nationality Act 1981: see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) paras 10,

72–76) (Council Tax (Additional Provisions for Discount Disregards) Regulations 1992, SI 1992/552, reg 3(1) Class F para (iii) (as so added)); or

(iv) a permanent resident of the United Kingdom (reg 3(1) Class F para (iv) (as so added)).

For the purposes of head (3) supra, 'relevant period' means the period after 30 April and before 1 November in any year; 'qualifying course of education' and 'full-time course of education' have the same meanings as in the Council Tax (Discount Disregards) Order 1992, SI 1992/548, art 4, Sch 1 Pt II (paras 2–6) (as amended) (definition of 'students') (see para 251 note 2 ante); and the day in question must be within the same relevant period as that in which the cessation takes place: see the Council Tax (Additional Provisions for Discount Disregards) Regulations 1992, SI 1992/552, reg 3(2) (substituted by SI 1993/149). For the meaning of 'United Kingdom' see para 127 note 20 ante. As to British citizens see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) paras 8, 23–43; as to British overseas citizens see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) paras 8, 58–62; and as to British overseas territories citizens see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) paras 8, 44–57.

3 Local Government Finance Act 1992 Sch 1 para 11(b). As to the conditions so prescribed see note 2 supra.

(iii) Other Relief

257. Central government's power to reduce amounts of council tax payable. The Secretary of State (or the Welsh Ministers, as the case may be)[1] may make regulations[2] as regards any case where:

(1) a person is liable to pay an amount to a billing authority[3] in respect of council tax[4] for any financial year[5] which is prescribed[6]; and

(2) prescribed conditions are fulfilled[7].

The conditions mentioned in head (2) above may be prescribed by reference to such factors as the Secretary of State (or the Welsh Ministers, as the case may be) thinks fit[8]. In particular, such factors may include the making of an application by the person concerned, and all or any of the following factors[9], namely:

(a) community charges for a period before 1 April 1993[10];

(b) the circumstances of, or other matters relating to, the person concerned[11];

(c) an amount relating to the authority concerned and specified (or to be specified) for the purposes of the regulations in a report laid (or to be laid) before the House of Commons (or the National Assembly for Wales, as the case may be)[12];

(d) such other amounts as may be prescribed or arrived at in a prescribed manner[13];

or all or any of the following factors[14], namely:

(i) a disabled person having his sole or main residence in the dwelling concerned[15];

(ii) the circumstances of, or other matters relating to, that person[16];

(iii) the physical characteristics of, or other matters relating to, that dwelling[17].

Further to head (1) above, the regulations may provide that the amount a person is liable to pay is to be an amount which is less than the amount it would be apart from the regulations[18] and which is determined in accordance with prescribed rules[19]. Those rules may be prescribed by reference to such factors as the Secretary of State (or the Welsh Ministers, as the case may be) thinks fit[20]; and in particular such factors may include all or any of the factors mentioned in heads (a) to (d) above or in head (ii) or head (iii) above[21].

The regulations so made[22] may include[23]:

(A) provision requiring the Secretary of State (or the Welsh Ministers, as the case may be) to specify in a report, for the purposes of the regulations, an amount in relation to each billing authority[24];

(B) provision requiring the Secretary of State to lay the report before the House of Commons (or the Welsh Ministers to lay the report before the National Assembly for Wales, as the case may be)[25];

(C) provision for the review of any prescribed decision of a billing authority relating to the application or operation of the regulations[26];

(D) provision that no appeal may be made to a valuation tribunal in respect of such a decision[27].

To the extent that he would not have power to do so otherwise, the Secretary of State[28] may include in such regulations such amendments of any social security instrument[29] as he thinks expedient in consequence of such regulations[30]; and he may include in any social security instrument such provision as he thinks expedient in consequence of such regulations[31].

1 As to the Secretary of State and the Welsh Ministers see para 228 ante.

2 As to the making of regulations under the Local Government Finance Act 1992 generally see para 228 ante. As to the regulations so made see note 6 infra.

3 As to billing authorities see para 229 ante.

4 The Local Government Finance Act 1992 s 13 (as amended) applies whether the amount mentioned in s 13(1) is determined under s 10 (basic amounts payable) (see para 243 ante) or under s 10 read with s 11 (as amended) (discounts) (see para 245 ante), s 11A (as added) (special provision for discounts where dwellings in England have no resident) (see para 246 ante) or s 12 (as substituted) (special provision for discounts where dwellings in Wales have no resident) (see para 247 ante): s 13(3) (amended by the Local Government Act 2003 s 127(1), Sch 7 paras 40, 42). As to references generally to an amount payable in respect of council tax see para 244 note 3 ante. As to council tax see para 227 et seq ante. As to discounts applicable to an amount payable in respect of council tax see paras 245–247 ante. As to a billing authority's power to reduce the amount of council tax payable see para 258 post.

5 For the meaning of 'financial year' see para 231 note 1 ante.

6 Local Government Finance Act 1992 s 13(1)(a). 'Prescribed' means prescribed by regulations made by the Secretary of State (or by the Welsh Ministers, as the case may be): s 116(1). The regulations so prescribed have made provision for reduced amounts to be payable where special facilities for disabled persons have placed a property in a higher valuation band (see heads (i) to (iii) in the text): see the Council Tax (Reductions for Disabilities) Regulations 1992, SI 1992/554 (amended by SI 1993/195; SI 1999/1004; and in relation to Wales by SI 2005/702; modified by SI 1995/3150; SI 2004/3142). As to valuation bands see para 244 ante. There must be an appropriate causal link between the disability and the requirement for the use of the accommodation: see *Howell-Williams v Wirral Borough Council* (1981) 79 LGR 697, [1981] RA 189, CA; *Luton Borough Council v Ball* [2001] EWHC Admin 328, [2001] RVR 198 (the purpose of the statutory instrument was to relieve eligible persons from an increase in their council tax liability when they needed an extra room to meet their needs); *Sandwell Metropolitan Borough Council v Perks* [2003] EWHC 1749 (Admin), [2003] RVR 317, [2003] All ER (D) 118 (Jul); *South Gloucestershire Council v Titley* [2006] EWHC 3117 (Admin), [2007] RA 27 (no basis in the regulations for a requirement that without the room or extra feature the disabled person must find it physically impossible or extremely difficult to live in the dwelling, or that his health would suffer or the disability would be likely to become more severe); and see *Hanson v Middlesbrough Borough Council* [2006] EWHC 1700 (Admin), [2006] RA 320.

The regulations so prescribed also have made provision for payment of reduced amounts under transitional arrangements (see heads (a) to (d) in the text), now largely of historical interest: see the Council Tax (Transitional Reduction Scheme) (England) Regulations 1993, SI 1993/175 (amended by SI 1993/253; SI 1993/401); the Council Tax (Transitional Reduction Scheme) (England) Regulations 1994, SI 1994/135; the Council Tax (Transitional Reduction Scheme) (England) Regulations 1995, SI 1995/209; the Local Government Reorganisation (Wales) (Council Tax Reduction Scheme) Regulations 1996, SI 1996/309; the Local Government Reorganisation (Wales) (Council Tax Reduction Scheme) Regulations 1997, SI 1997/261; the Council Tax Reduction Scheme (Wales) Regulations 1998, SI 1998/266; the Local Government Changes for England (Council Tax) (Transitional Reduction) Regulations 1999, SI 1999/259; the Council Tax Reduction Scheme (Wales) Regulations 1999, SI 1999/347; the Council Tax (Reduction Scheme) and (Demand Notices Transitional Provisions) (Wales) Regulations 2000, SI 2000/501; and the Council Tax (Transitional Arrangements) (Wales) Regulations 2004, SI 2004/3142 (amended by SI 2005/702).

7 Local Government Finance Act 1992 s 13(1)(b). As to the regulations in which the conditions mentioned in the text are prescribed see note 6 supra.

8 Ibid s 13(4).

9 Ibid s 13(4)(a).

10 Ibid s 13(5)(a). With effect from 1 April 1993, the community charge was abolished and replaced with the council tax: see para 227 ante.

11 Ibid s 13(5)(b).

12 Ibid s 13(5)(c). As to references to reports made in relation to functions exercised by the Welsh Ministers see para 228 ante.
13 Ibid s 13(5)(d).
14 Ibid s 13(4)(b).
15 Ibid s 13(6)(a). For the meaning of 'dwelling' see para 232 ante.
16 Ibid s 13(6)(b).
17 Ibid s 13(6)(c).
18 Ibid s 13(2)(a).
19 Ibid s 13(2)(b).
20 Ibid s 13(7).
21 Ibid s 13(7).
22 Ie under ibid s 13 (as amended): see s 13(8).
23 Ibid s 13(8). This provision is expressed to be without prejudice to s 113(2) (as amended) (see para 228 ante): see s 13(8).
24 Ibid s 13(8)(a).
25 Ibid s 13(8)(b). As to references to reports see note 12 supra.
26 Ibid s 13(8)(c).
27 Ibid s 13(8)(d). Head (D) in the text is notwithstanding the provisions of s 16(1) (appeals) (see para 353 post): see s 13(8)(d).
28 This function of the Secretary of State has not been transferred to the Welsh Ministers: see para 228 ante.
29 For these purposes, 'social security instrument' means an order or regulations made, or falling to be made, by the Secretary of State under the Social Security Acts, that is to say, the Social Security Contributions and Benefits Act 1992 and the Social Security Administration Act 1992: Local Government Finance Act 1992 s 13(10). See e g para 371 et seq post.
30 Ibid s 13(9)(a).
31 Ibid s 13(9)(b).

258. Billing authority's power to reduce amounts of council tax payable. Where a person is liable to pay council tax[1] in respect of any chargeable dwelling[2] and any day, the billing authority[3] for the area in which the dwelling is situated may reduce the amount which he is liable to pay[4] as respects the dwelling and the day to such extent as it thinks fit[5]. This power may be exercised in relation to particular cases or by determining a class of case in which liability is to be reduced to an extent provided by the determination[6]. Where a billing authority exercises this power by determining a class of case in which liability is to be reduced[7]:

(1) where the determination provides for liability to be reduced to nil, any dwelling in relation to which the reduction applies is to be treated for the purposes of council tax administration[8] as an exempt dwelling[9]; and
(2) where the determination provides for liability to be reduced otherwise than to nil, any amount in relation to which the reduction applies is to be treated for the purposes of council tax administration[10] as subject to a discount equal to the amount of the reduction[11].

1 As to council tax see para 227 et seq ante; and as to persons liable to pay council tax see paras 237–239 ante.
2 For the meaning of 'chargeable dwelling' see para 233 ante; and for the meaning of 'dwelling' see para 232 ante.
3 As to billing authorities see para 229 ante.
4 As to references to an amount payable in respect of council tax see para 244 note 3 ante.
5 Local Government Finance Act 1992 s 13A(1) (s 13A added by the Local Government Act 2003 s 76). The power under the Local Government Finance Act 1992 s 13A(1) (as added) includes power to reduce an amount to nil: s 13A(2) (as so added).
6 Ibid s 13A(3) (as added: see note 5 supra).
7 See ibid s 14(1), Sch 2 para 21(1) (Sch 2 para 21 added by the Local Government Act 2003 s 127(1), Sch 7 paras 40, 53(1), (3)).
8 Ie for the purposes of the Local Government Finance Act 1992 Sch 2 (as amended) (power to make regulations for administration of council tax) (see para 279 post): see Sch 2 para 21(2) (as added: see note 7 supra).
9 Ibid Sch 2 para 21(2) (as added: see note 7 supra). As to exempt dwellings see para 234 et seq ante.

10 Ie for the purposes of ibid Sch 2 (as amended) (power to make regulations for administration of council tax) (see para 279 post): see Sch 2 para 21(3) (as added: see note 7 supra).
11 Ibid Sch 2 para 21(3) (as added: see note 7 supra). As to discounts generally applicable to an amount payable in respect of council tax see para 245 et seq ante.

259. Central government's power to smooth changes in council tax liability. The Secretary of State (or the Welsh Ministers, as the case may be)[1] may by regulations[2] make provision for the purpose of smoothing changes in council tax liability[3] resulting from the coming into force in relation to a billing authority[4] in England or in Wales[5] (as the case may be) of[6]:

(1) an order varying the provisions by which dwellings[7] in different valuation bands[8] attract different amounts of council tax[9]; or
(2) a list made pursuant to the provisions which govern the compilation and maintenance of new lists[10].

1 As to the Secretary of State and the Welsh Ministers see para 228 ante.
2 As to the making of regulations under the Local Government Finance Act 1992 generally see para 228 ante. As to the regulations made in exercise of the powers conferred under s 13B(2) (as added) see the Council Tax (Transitional Arrangements) (Wales) Regulations 2004, SI 2004/3142 (amended by SI 2005/702), which make transitional arrangements for the period from 1 April 2005 to 31 March 2008 in relation to Wales; and see paras 244 ante, 271 post.
3 As to council tax see para 227 et seq ante; and as to persons liable to pay council tax see paras 237–239 ante.
4 As to billing authorities see para 229 ante.
5 For the meanings of 'England' and 'Wales' see para 1 note 2 ante.
6 See the Local Government Finance Act 1992 s 13B(1), (2) (as added); and paras 244 ante, 271 post.
7 For the meaning of 'dwelling' see para 232 ante.
8 As to valuation bands see para 244 ante.
9 See the Local Government Finance Act 1992 s 13B(1)(a), (2)(a) (as added); and para 244 ante. Head (1) in the text refers to an order made under s 5 (as amended) (see para 244 ante): see s 13B(1)(a), (2)(a) (as added).
10 See ibid s 13B(1)(b), (2)(b) (as added); and para 271 post. Head (2) in the text refers to a list made under s 22B (as added and amended) (see para 271 post): see s 13B(1)(b), (2)(b) (as added).

(iv) Calculation

260. Amounts for different categories of dwellings. For each financial year[1] and each category of dwellings[2] in its area, a billing authority[3] must set an amount of council tax[4]. An amount so set is to be calculated by taking the aggregate of:

(1) the amount which, in relation to the year and the category of dwellings, has been calculated (or last calculated) by the authority in accordance with the requisite calculations[5]; and
(2) any amounts which, in relation to the year and the category of dwellings, have been calculated in accordance with the requisite calculations by major precepting authorities[6] and have been stated (or last stated) in accordance with the provisions with regard to the issue of precepts[7] in precepts issued to the authority by major precepting authorities[8].

Where the aggregate amount so given is a negative amount, the amount set must be nil[9].

A billing authority must assume for these purposes that each of the valuation bands is shown in its valuation list[10] as applicable to one or more dwellings situated in its area or (as the case may be) each part of its area as respects which different calculations have been so made[11].

Any amount must be set before 11 March in the financial year preceding that for which it is set, but is not invalid merely because it is set on or after that date[12]. No amount may be set before the earlier of the following:

(a) 1 March in the financial year preceding that for which the amount is set[13];

(b) the date of the issue to the authority of the last precept capable of being issued to it (otherwise than by way of substitute) by a major precepting authority for the financial year for which the amount is set[14].

No amount may be set unless the authority has made in relation to the year the requisite calculations[15].

1 For the meaning of 'financial year' see para 231 note 1 ante.

2 For the meaning of 'dwelling' see para 232 ante.

3 As to billing authorities see para 229 ante.

4 Local Government Finance Act 1992 s 30(1). As to council tax see para 227 et seq ante.

Dwellings fall within different categories for the purposes of s 30(1), (2) according as different calculations have been made in relation to them in accordance with ss 32–36 (as amended) (see paras 262–264 post) or ss 43–47 (as amended) (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 524 et seq) or both: s 30(4). However, where the major precepting authority in question is the Greater London Authority, s 30(2)(b) (see head (2) in the text) and s 30(4) have effect as if the references to ss 43–47 (as amended) were references to the appropriate Greater London provisions: s 30(10) (s 30(10), (11) added by the Greater London Authority Act 1999 s 81). For these purposes, 'appropriate Greater London provisions' means the Local Government Finance Act 1992 s 47 (as amended) (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 524) and the Greater London Authority Act 1999 ss 85–90 (as amended) (see LONDON GOVERNMENT vol 29(2) (Reissue) para 233 et seq) or, in the case of calculations by way of substitute, ss 85, 86 (both as amended) (see LONDON GOVERNMENT vol 29(2) (Reissue) para 233) and ss 88, 89 (both as amended), s 90, and s 98, Sch 7 (see LONDON GOVERNMENT vol 29(2) (Reissue) paras 235, 236) and the Local Government Finance Act 1992 s 47 (as amended): s 30(11) (as so added).

A calculation made in accordance with any of ss 32–36 (as amended) or ss 43–47 (as amended), whether originally or by way of substitute, or in accordance with any of the Greater London Authority Act 1999 ss 85–90 (as amended), or a substitute calculation made in accordance with any of ss 85, 86 (both as amended) and ss 88, 89 (both as amended), s 90, and s 98, Sch 7, is not to be questioned except by an application for judicial review: see the Local Government Finance Act 1992 s 66(1), (2)(c)–(cd) (s 66(2)(c) amended by the Local Government Act 1999 s 30, Sch 1 Pt II paras 2, 6; the Local Government Finance Act 1992 s 66(2)(cc), (cd) added by the Greater London Authority Act 1999 s 107). If, on an application for judicial review, the court decides to grant relief in respect of any of the matter, it must quash the calculation: see the Local Government Finance Act 1992 s 66(3). As to the procedure for judicial review see ADMINISTRATIVE LAW vol 1(1) (2001 Reissue) paras 69 et seq, 159 et seq.

5 Ibid s 30(2)(a). The text refers to the requisite calculations made in accordance with ss 32–36 (as amended) (see paras 262–264 post): see s 30(2)(a). Accordingly, the amount to be taken into account under s 30(2)(a) for any financial year in respect of a category of dwellings listed in a particular valuation band is to be calculated by applying the formula:

$$A \times \left(\frac{N}{D}\right)$$

where A is the amount calculated (or last calculated) by the billing authority for that year under s 33(1) (as amended) (see para 263 post) or, where s 34 applies (see para 264 post), the amount calculated (or last calculated) by it for that year under s 34(2) or (3) in relation to that category of dwellings; N is the number which, in the proportion set out in s 5(1) (see para 244 ante), is applicable to dwellings listed in that valuation band; and D is the number which, in that proportion, is applicable to dwellings listed in valuation band D: s 36(1). Dwellings fall within different categories for the purposes of s 36 according as different calculations have been made in relation to them under s 34: s 36(2). For the meaning of dwellings listed in a particular valuation band see para 244 note 5 ante. As to valuation bands see para 244 ante.

6 Ie in accordance with ibid ss 43–47 (as amended) (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 524 et seq): see s 30(2)(b). See note 4 supra. As to major precepting authorities for these purposes see para 228 note 21 ante.

7 Ie in accordance with ibid s 40 (as amended) (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 524): see s 30(2)(b).

8 Ibid s 30(2)(b). See note 4 supra.

9 Ibid s 30(3).

10 As to valuation lists see para 268 et seq post.

11 Local Government Finance Act 1992 s 30(5).

12 Ibid s 30(6).

13 Ibid s 30(7)(a). A purported setting of an amount, if done in contravention of s 30(7) or s 30(8) (see the text and note 15 infra), is to be treated as not having occurred: s 30(9).

14 Ibid s 30(7)(b). See note 13 supra.
15 Ibid s 30(8). The calculations referred to in the text are those required by Pt I Ch III (ss 30–38) (as amended) (see notes 4, 5 supra): see s 30(8). See also note 13 supra.

261. Substituted amounts. Where a billing authority[1] has set amounts for different categories of dwellings for a financial year[2], and at any later time[3]:

(1) it makes substitute calculations[4]; or
(2) it is issued with a precept for the year (originally or by way of substitute) by a major precepting authority[5],

it must as soon as reasonably practicable after that time set amounts in substitution so as to give effect to those calculations or that precept[6].

Where a billing authority so sets any amount in substitution (a 'new amount'), anything paid to it by reference to the amount for which it is substituted (the 'old amount') is to be treated as paid by reference to the new amount[7]. If the old amount exceeds the new amount, the following applies as regards anything paid if it would not have been paid had the old amount been the same as the new amount[8]:

(a) it must be repaid if the person by whom it was paid so requires[9];
(b) in any other case it must (as the billing authority determines) either be repaid or be credited against any subsequent liability of the person to pay in respect of any council tax[10] set by the authority[11].

Where an authority sets amounts in substitution under head (2) above, it may recover from the major precepting authority administrative expenses incurred by it in, or in consequence of, so doing[12].

1 As to billing authorities see para 229 ante.
2 Ie under the Local Government Finance Act 1992 s 30 (as amended) (see para 260 ante): see s 31(1). For the meaning of 'dwelling' see para 232 ante; and for the meaning of 'financial year' see para 231 note 1 ante.
3 Ibid s 31(1).
4 Ibid s 31(1)(a) (amended by the Local Government Act 1999 s 30, Sch 1 Pt II paras 2, 3). The text refers to substitute calculations made under the Local Government Finance Act 1992 s 37 (see para 265 post) or ss 52I, 52T (both as added) (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 529): see s 31(1)(a) (as so amended).
5 Ibid s 31(1)(b). As to major precepting authorities for these purposes see para 228 note 21 ante.
6 Ibid s 31(1). Any amount set in substitution under s 31(1) (as amended) must be set in accordance with s 30 (as amended) (see para 260 ante), but s 30(6) (amount to be set before 11 March in the financial year preceding) is to be ignored for this purpose: s 31(2).
7 Ibid s 31(3).
8 Ibid s 31(4).
9 Ibid s 31(4)(a).
10 As to council tax generally see para 227 et seq ante.
11 Local Government Finance Act 1992 s 31(4)(b). The text refers to any subsequent liability to pay set in accordance with s 30 (as amended) (see para 260 ante): see s 31(4)(b).
12 Ibid s 31(5).

262. Calculation of budget requirement. In relation to each financial year[1], a billing authority[2] must make the requisite calculations[3] by:

(1) calculating the aggregate of[4]:
  (a) the expenditure which the authority estimates it will incur in the year in performing its functions and will charge to a revenue account for the year[5];
  (b) such allowance as the authority estimates will be appropriate for contingencies in relation to expenditure to be charged to a revenue account for the year[6];
  (c) the financial reserves which the authority estimates it will be appropriate to raise in the year for meeting its estimated future expenditure[7];
  (d) such financial reserves as are sufficient to meet so much of the amount

estimated by the authority to be a revenue account deficit for any earlier financial year as has not already been provided for[8]; and

(e) any amounts which it estimates will be transferred from its general fund to its collection fund pursuant to a direction[9] and charged to a revenue account for the year, other than (in the case of an authority in England) any amounts which it estimates will be so transferred pursuant to such a direction relating to the difference between amounts in respect of community charges credited and charged to a revenue account for any earlier financial year[10]; and

(2) calculating the aggregate of[11]:

(a) the sums which it estimates will be payable for the year into its general fund or (as the case may be) council fund[12] and in respect of which amounts will be credited to a revenue account for the year, other than sums which it estimates will be so payable in respect of redistributed non-domestic rates[13], revenue support grant[14], additional grant[15] or (in relation to England only) BID levy or financial contribution made under the BID provisions of the Local Government Act 2003[16] or (in the case of the Common Council of the City of London only) police grant[17];

(b) any amounts which it estimates will be transferred from its collection fund to its general fund pursuant to a direction[18] and credited to a revenue account for the year, other than (in the case of an authority in England) any amounts which it estimates will be so transferred[19]: (i) pursuant to such a direction relating to the difference between amounts in respect of community charges credited and charged to a revenue account for any earlier financial year[20]; and (ii) in the case of the Common Council of the City of London, pursuant to such a direction in respect of an amount calculated by reference to the provisional amount of its non-domestic rating contribution[21]; and

(c) the amount of the financial reserves which the authority estimates that it will use in order to provide for the items mentioned in heads (1)(a), (1)(b) and (1)(e) above[22].

If the aggregate calculated under heads (1)(a) to (1)(e) above exceeds that calculated under heads (2)(a) to (2)(c) above, the authority must calculate the amount equal to the difference; and the amount so calculated is to be its budget requirement for the year[23].

Calculations to be made in relation to a particular financial year under this provision must be made before 11 March in the preceding financial year, but they are not invalid merely because they are made on or after that date[24].

1 For the meaning of 'financial year' see para 231 note 1 ante.

2 As to billing authorities see para 229 ante.

3 Local Government Finance Act 1992 s 32(1).

Before a billing authority makes its calculations (otherwise than by way of substitute) (as to which see para 265 post) in relation to the financial year under s 32 (as amended), it must consult persons or bodies appearing to it to be representative of persons subject to non-domestic rates under the Local Government Finance Act 1988 s 43 (as amended) (see paras 9, 60, 70 et seq ante) and s 45 (as amended) (see paras 62–63, 78–79 ante) as regards hereditaments situated in the authority's area: see the Local Government Finance Act 1992 s 65(1), (3), (4) (s 65(3) amended by the Greater London Authority Act 1999 s 423, Sch 34 Pt I). For the meaning of 'hereditament' see para 33 et seq ante. Consultations must be made as to each financial year, and must be about the authority's proposals for expenditure (including capital expenditure) in that financial year: Local Government Finance Act 1992 s 65(2). The Secretary of State (or the Welsh Ministers, as the case may be) may by regulations prescribe matters which are to be treated as expenditure for this purpose: see s 65(2). As to the Secretary of State and the Welsh Ministers, and as to the making of regulations under the Local Government Finance Act 1992 generally, see para 228 ante. At the date at which this volume states the law, no such regulations had been made under s 65(2).

In performing the duty to consult, an authority must have regard to any guidance issued by the Secretary of State (or by the Welsh Ministers, as the case may be) concerning:

(1) persons or bodies to be regarded for these purposes as representative of persons subject to non-domestic rates under the Local Government Finance Act 1988 ss 43, 45 (both as amended) as regards hereditaments situated in the authority's area (Local Government Finance Act 1992 s 65(5)(a)); and

(2) the timing and manner of consultations under s 65 (as amended) (s 65(5)(b)).

As to non-domestic rating see para 4 et seq ante. An authority must make available to persons or bodies it proposes to consult such information as may be prescribed and is in its possession or control, and it must do so in such form and manner and at such time as may be prescribed: see s 65(6). 'Prescribed' means prescribed by regulations made by the Secretary of State (or by the Welsh Ministers, as the case may be): s 116(1). As to the meaning of 'information' see para 228 note 23 ante. As to the regulations so made under s 65(6) see the Non-Domestic Ratepayers (Consultation) Regulations 1992, SI 1992/3171.

Where an authority to which the Local Government Finance Act 1992 s 32 (as amended) or s 43 (as amended) (billing or major precepting authority) (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 525) applies or to which the Greater London Authority Act 1999 s 85 (as amended) (the Greater London Authority) (see LONDON GOVERNMENT vol 29(2) (Reissue) para 233) applies is making calculations in accordance with that section, the chief finance officer of the authority must report to it on matters such as the robustness of the estimates made for the purposes of the calculations, and the adequacy of the proposed financial reserves, and must review those calculations throughout the year: see the Local Government Act 2003 ss 25–28; LOCAL GOVERNMENT vol 29(1) (Reissue) para 525; and LONDON GOVERNMENT vol 29(2) (Reissue) para 233.

4 Local Government Finance Act 1992 s 32(2). In making the calculation under s 32(2) (as amended), an authority in England must ignore:

(1) payments which must be met from its collection fund under the Local Government Finance Act 1988 s 90(2) (as substituted) (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 545) or from a trust fund (Local Government Finance Act 1992 s 32(5)(a)); and

(2) subject to s 32(2)(e) (as substituted) (see head (1)(e) in the text), sums which have been or are to be transferred from its general fund to its collection fund (s 32(5)(b)).

As to the funds established for the purposes of local government finance see LOCAL GOVERNMENT vol 29(1) (Reissue) para 545 et seq. In making the calculation under s 32(2) (as amended), a county council or county borough council in Wales must ignore:

(a) payments which must be met from a trust fund (s 32(5)(a) (s 32(5) substituted in relation to Wales by s 32(8B) (added by the Local Government (Wales) Act 1994 s 38(11), Sch 12 para 4(3), (5)));

(b) payments to be made to the Welsh Ministers under the Local Government Finance Act 1988 s 60, Sch 8 para 5 (as amended) (see para 1 ante) or regulations made under Sch 8 para 5(15) (as substituted) (see para 1 ante) (Local Government Finance Act 1992 s 32(5)(b) (as so substituted));

(c) payments to be made in respect of the amount of any precept issued by a major precepting authority under Pt I (ss 1–69) (as amended) (see paras 228 et seq ante, 263 et seq post) (but not payments to be so made in respect of interest on such an amount) (ibid s 32(5)(c) (as so substituted)); and

(d) payments to be made to another person in repaying, under regulations under the Local Government Finance Act 1988 or the Local Government Finance Act 1992 Pt I (as amended), excess receipts by way of non-domestic rates or council tax (s 32(5)(d) (as so substituted)).

For the meanings of 'England' and 'Wales' see para 1 note 2 ante. As to council tax generally see para 227 et seq ante. As to major precepting authorities for these purposes see para 228 note 21 ante. As to local government areas and authorities in Wales and their councils generally see LOCAL GOVERNMENT vol 29(1) (Reissue) para 41 et seq.

5 Ibid s 32(2)(a). As to the charging of expenditure to revenue account see LOCAL GOVERNMENT vol 29(1) (Reissue) para 560 et seq. In relation to England only, head (1)(a) in the text refers to expenditure which the authority will charge to a revenue account, other than a BID revenue account, for the year (including any expenditure to be incurred by virtue of the Local Government Act 2003 s 43(2)(a) (see para 220 ante), or in paying any BID levy for which the authority is liable): see the Local Government Finance Act 1992 s 32(2)(a) (substituted in relation to England by the Local Authorities (Alteration of Requisite Calculations) (England) Regulations 2005, SI 2005/190, reg 2(a)). For the meaning of 'BID levy' for these purposes see para 220 note 7 ante; definition applied by the Local Government Finance Act 1992 s 32(13) (added in relation to England by the Local Authorities (Alteration of Requisite Calculations) (England) Regulations 2005, SI 2005/190, reg 2(d)). For the meaning of 'BID revenue account' for these purposes see para 226 ante; definition applied by the Local Government Finance Act 1992 s 32(13) (as so added).

In making its estimation under s 32(2)(a) (as substituted in relation to England), the authority must take into account:

(1) the amount of any precept issued to it for the year by a local precepting authority (s 32(6)(a)); and

(2) the amount of any levy or special levy issued to it for the year (s 32(6)(b)),

but, except as provided by regulations under s 41 (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 526) or regulations under the Local Government Finance Act 1988 s 74 (as amended) (levies) (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 530) or s 75 (as amended) (special levies) (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 530), must not anticipate a precept, levy or special levy not issued (Local Government Finance Act 1992 s 32(6)). For these purposes, 'levy' means a levy under regulations made under the Local Government Finance Act 1988 s 74 (as amended); and 'special levy' means a levy under regulations made under s 75 (as amended): Local Government Finance Act 1992 s 69(1). As local precepting authorities for these purposes see para 228 note 21 ante.

6 Ibid s 32(2)(b).

7 Ibid s 32(2)(c). For the purposes of s 32(2)(c), an authority's estimated future expenditure is:

(1) that which the authority estimates it will incur in the financial year following the year in question, will charge to a revenue account for the year and will have to defray in the year before the following sums are sufficiently available (s 32(7)(a)), namely:

(a) sums which will be payable for the year into its general fund or (as the case may be) council fund and in respect of which amounts will be credited to a revenue account for the year (s 32(7)(a)(i) (amended by the Local Government (Wales) Act 1994 Sch 12 para 4(4))); and

(b) sums which will be transferred as regards the year from its collection fund to its general fund (Local Government Finance Act 1992 s 32(7)(a)(ii)); and

(2) that which the authority estimates it will incur in the financial year referred to in head (1) supra or any subsequent financial year in performing its functions and which will be charged to a revenue account for that or any other year (s 32(7)(b)).

Head (1)(b) supra does not apply in relation to a Welsh county council or county borough council: see s 32(8A) (added by the Local Government (Wales) Act 1994 Sch 12 para 4(3), (5)).

8 Local Government Finance Act 1992 s 32(2)(d).

9 Ie under the Local Government Finance Act 1988 s 98(5) (as amended) (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 548): see the Local Government Finance Act 1992 s 32(2)(e) (as substituted: see note 10 infra).

10 Ibid s 32(2)(e) (substituted by the Local Authorities (Alteration of Requisite Calculations and Funds) Regulations 1994, SI 1994/246, reg 3). With effect from 1 April 1993, the community charge was abolished and replaced with the council tax: see para 227 ante. The Local Government Finance Act 1992 s 32(2)(e) (as substituted) does not apply in relation to a Welsh county council or county borough council: see s 32(8A) (as added: see note 7 supra).

11 Ibid s 32(3). In making the calculation under s 32(3) (as amended), an authority in England must ignore, subject to s 32(3)(b) (as substituted) (see head (2)(b) in the text), sums which have been or are to be transferred from its collection fund to its general fund: s 32(8). Section 32(8) does not apply in relation to a Welsh county council or county borough council: see s 32(8A) (as added: see note 7 supra). In relation to Welsh authorities see note 12 infra.

12 In the case of any billing authority in Wales, head (2)(a) in the text does not require the estimation of sums payable into its council fund in respect of council tax, non-domestic rates or the grant paid to it under the Local Government Finance Act 1988 s 88A (as added and substituted) (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 537): Local Government Finance Act 1992 s 32(3A) (added by the Local Government (Wales) Act 1994 Sch 12 para 4; amended by the Local Government Reorganisation (Wales) (Council Tax Reduction Scheme) Order 1996, SI 1996/56, art 2).

13 For these purposes, in relation to England, references to sums payable for the financial year in respect of redistributed non-domestic rates are references to sums so payable in accordance with the Local Government Finance Report (England) 2008/2009 approved by a resolution of the House of Commons pursuant to the Local Government Finance Act 1988 s 79(2) (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 537) and s 60, Sch 8 para 11(2) (see para 1 ante) on 4 February 2008: see the Local Government Finance Act 1992 s 32(12A)(a) (s 32(12A) added in relation to England only by the Local Authorities (Alteration of Requisite Calculations) (England) Regulations 2008, SI 2008/227, reg 3(c)). In relation to Wales, references to sums payable for the financial year in respect of redistributed non-domestic rates are references to sums so payable in accordance with the Local Government Finance Report (No 1) 2007–2008 (Final Settlement—Councils) published by the National Assembly for Wales pursuant to the Local Government Finance Act 1988 s 84G(4) (as added and amended) (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 534) on 21 December 2006: see the Local Government Finance Act 1992 s 32(12A)(a) (s 32(12A) added in relation to Wales only by the Local Authorities (Alteration of Requisite Calculations) (Wales) Regulations 2007, SI 2007/571, reg 2(b)). 'Redistributed non-domestic rates' means any sums payable by the Secretary of State (or by the Welsh Ministers, as the case may be) under the Local Government Finance Act 1988 Sch 8 para 12 (as amended) (see para 1 ante) or Sch 8 para 15 (as substituted) (see para 1 ante): Local Government Finance Act 1992 s 69(1).

14 For these purposes, references to sums payable for the financial year in respect of revenue support grant are references to sums so payable in accordance with the report mentioned in ibid s 32(12A)(a) (as added)

(see note 13 supra): see s 32(12A)(b) (as added: see note 13 supra). For the meaning of 'revenue support grant' see the Local Government Finance Act 1988 s 78(1) (as amended in relation to Wales; prospectively amended in relation to England) (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 532); definition applied by virtue of the Local Government Finance Act 1992 s 69(1) (definition repealed in relation to Wales by the Local Government Act 2003 s 127(1), (2), Sch 7 paras 40, 51(1), (2), Sch 8 Pt I). As from a day to be appointed under s 128(4)(f), the definition of 'revenue support grant' in the Local Government Finance Act 1992 s 69(1) is repealed in relation to England also but at the date at which this volume states the law no such day had been so appointed.

15 For the meaning of 'additional grant' see the Local Government Finance Act 1988 s 85(2) (as amended in relation to Wales; prospectively amended in relation to England) (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 535); definition applied by virtue of the Local Government Finance Act 1992 s 69(1).

16 Ie under the Local Government Act 2003 s 43(2) (see para 220 ante): see the Local Government Finance Act 1992 s 32(3)(a) (as amended: see note 17 infra).

17 Ibid s 32(3)(a) (amended by the Local Government (Wales) Act 1994 Sch 12 para 4(2); the Local Authorities (Alteration of Requisite Calculations and Funds) Regulations 1994, SI 1994/246, reg 3; the Local Authorities (Alteration of Requisite Calculations and Funds) Regulations 1995, SI 1995/234, reg 2; in relation to England only by the Local Authorities (Alteration of Requisite Calculations) (England) Regulations 2005, SI 2005/190, reg 2(b); and the Local Authorities (Alteration of Requisite Calculations) (England) Regulations 2008, SI 2008/227, reg 3(a); and in relation to Wales only by the Local Authorities (Alteration of Requisite Calculations) (Wales) Regulations 2007, SI 2007/571, reg 2(a)). For these purposes, 'police grant' means so much of the grant payable in accordance with column (a) of paragraph 3.1 of the Police Grant Report (England and Wales) 2008/09 approved by a resolution of the House of Commons pursuant to the Police Act 1996 s 46 (as amended) (see POLICE vol 36(1) (2007 Reissue) para 217) on 4 February 2008: Local Government Finance Act 1992 s 32(12) (substituted by the Local Authorities (Alteration of Requisite Calculations) (England) Regulations 2008, SI 2008/227, reg 3(b)). As to what constitutes the area of the Common Council of the City of London for these purposes see para 229 note 4 ante.

18 Ie under the Local Government Finance Act 1988 s 98(4) (as amended) (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 548): see the Local Government Finance Act 1992 s 32(3)(b) (as substituted: see note 19 infra).

19 Ibid s 32(3)(b) (substituted by the Local Authorities (Alteration of Requisite Calculations and Funds) Regulations 1994, SI 1994/246, reg 3). The Local Government Finance Act 1992 s 32(3)(b) (as substituted) does not apply in relation to a Welsh county council or county borough council: s 32(8A) (as added: see note 7 supra).

20 Ibid s 32(3)(b)(i) (as substituted: see note 19 supra).

21 Ibid s 32(3)(b)(ii) (as substituted: see note 19 supra). The text refers to the provisional amount of non-domestic rating contribution calculated under the Local Government Finance Act 1988 Sch 8 Pt II (paras 4–7) (as amended) (see para 1 ante): see the Local Government Finance Act 1992 s 32(3)(b)(ii) (as so substituted).

22 Ibid s 32(3)(c).

23 Ibid s 32(4). The Secretary of State (or the Welsh Ministers, as the case may be) may by regulations do one or both of the following:

(1) alter the constituents of any calculation to be made under s 32(2) (as amended) (see heads (1)(a) to (1)(e) in the text) or s 32(3) (as amended) (see heads (2)(a) to (2)(c) in the text), whether by adding, deleting or amending items (s 32(9)(a));

(2) alter the rules governing the making of any calculation under s 32(2) (as amended) or s 32(3) (as amended), whether by deleting or amending s 32(5)–(8B) (as amended), or any of them, or by adding other provisions, or by a combination of those methods (s 32(9)(b) (amended by the Local Government (Wales) Act 1994 Sch 12 para 4(6))).

In exercise of the power so conferred, the following regulations have been made under the Local Government Finance Act 1992 s 32(9) (as amended): the Billing Authorities (Alteration of Requisite Calculations and Transitional Reduction Scheme) (England) Regulations 1993, SI 1993/401; the Local Authorities (Alteration of Requisite Calculations and Funds) Regulations 1994, SI 1994/246; the Local Authorities (Alteration of Requisite Calculations and Funds) Regulations 1995, SI 1995/234; the Local Government Finance (New Parishes) Regulations 1998, SI 1998/119; the Local Government Finance (New Parishes) (Amendment) Regulations 1998, SI 1998/3270; the Local Authorities (Alteration of Requisite Calculations) (Wales) Regulations 1999, SI 1999/296; the Local Authorities (Alteration of Requisite Calculations) (England) Regulations 2000, SI 2000/213; the Local Authorities (Alteration of Requisite Calculations) (Wales) Regulations 2000, SI 2000/717; the Local Authorities (Alteration of Requisite Calculations) (England) Regulations 2001, SI 2001/216; the Local Authorities (Alteration of Requisite Calculations) (Wales) Regulations 2001, SI 2001/559; the Local Authorities (Alteration of Requisite Calculations) (England) Regulations 2002, SI 2002/155; the Local Authorities (Alteration of Requisite Calculations) (Wales) Regulations 2002, SI 2002/328; the Local Authorities (Alteration of

Requisite Calculations) (England) Regulations 2003, SI 2003/195; the Local Authorities (Alteration of Requisite Calculations) (England) Regulations 2004, SI 2004/243; the Local Authorities (Alteration of Requisite Calculations) (England) Regulations 2005, SI 2005/190; the Local Authorities (Alteration of Requisite Calculations) (England) Regulations 2006, SI 2006/247; the Local Authorities (Alteration of Requisite Calculations) (Wales) Regulations 2006, SI 2006/344; the Local Authorities (Alteration of Requisite Calculations) (England) Regulations 2007, SI 2007/227; the Local Authorities (Alteration of Requisite Calculations) (Wales) Regulations 2007, SI 2007/571; and the Local Authorities (Alteration of Requisite Calculations) (England) Regulations 2008, SI 2008/227. See also para 263 note 25 post.

24 Local Government Finance Act 1992 s 32(10).

263. Calculation of basic amount of tax. In relation to each financial year[1], a billing authority[2] must calculate the basic amount of its council tax[3] by applying the formula[4]:

$$\frac{(R-P)}{T}$$

where R is the amount calculated (or last calculated) by the authority[5] as its budget requirement for the year[6]; P is the aggregate of the sums which the authority estimates will be payable for the year into its general fund or (as the case may be) council fund in respect of redistributed non-domestic rates[7], revenue support grant[8], additional grant[9] or (in the case of the Common Council of the City of London[10] only) police grant[11]; and T is the amount which is calculated by the authority as its council tax base for the year and, where one or more major precepting authorities[12] have power to issue precepts to it, is notified by it to those authorities (the 'major precepting authorities concerned') within the prescribed period[13].

The aggregate of the sums mentioned in item P above must be increased or reduced by the amount calculated in accordance with the following formula, according to whether that amount is positive or negative[14]:

$$W+X-(Y+Z)$$

where W is the amount of any sum which the authority estimates will be transferred in the year from its collection fund to its general fund[15]; X in the case of an authority in Wales is nil and, in the case of an authority in England, is[16] the amount of any sum which the authority estimates will be:

(1) transferred from its collection fund to its general fund pursuant to a direction[17] relating to the difference between amounts in respect of community charges credited and charged to a revenue account for any earlier financial year[18]; and

(2) credited to a revenue account for the year[19];

Y is the amount of any sum which the authority estimates will be transferred in the year from its general fund to its collection fund[20]; and Z, in the case of an authority in Wales, is nil and, in the case of an authority in England, is the amount of any sum which the authority estimates will be:

(a) transferred from its general fund to its collection fund pursuant to a direction[21] relating to the difference between amounts in respect of community charges credited and charged to a revenue account for any earlier financial year[22]; and

(b) charged to a revenue account for the year[23].

Regulations[24] may make such consequential alterations of the constituents of any calculation required by item P above (or in the calculated adjustments made to that amount), whether by adding, deleting or amending items, as appear to the Secretary of State (or the Welsh Ministers, as the case may be) to be necessary or expedient[25]. The Secretary of State (or the Welsh Ministers, as the case may be) must make regulations containing rules for making for any year the calculation required by item T; and a billing

authority must make the calculation for any year in accordance with the rules for the time being effective (as regards the year) under the regulations[26]. Regulations prescribing a period for the purposes of item T may provide that, in any case where a billing authority fails to notify its calculation to the major precepting authorities concerned within that period, that item must be determined in the prescribed manner by such authority or authorities as may be prescribed[27].

1 For the meaning of 'financial year' see para 231 note 1 ante.

2 As to billing authorities see para 229 ante.

3 As to council tax generally see para 227 et seq ante.

4 Local Government Finance Act 1992 s 33(1) (amended by the Local Government (Wales) Act 1994 s 38(11), Sch 12 para 5; the Local Authorities (Alteration of Requisite Calculations and Funds) Regulations 1994, SI 1994/246 reg 4; and the Local Authorities (Alteration of Requisite Calculations and Funds) Regulations 1995, SI 1995/234, reg 3; in relation to England only by the Local Authorities (Alteration of Requisite Calculations) (England) Regulations 2008, SI 2008/227, reg 4; and in relation to Wales only by the Local Authorities (Alteration of Requisite Calculations) (Wales) Regulations 2007, SI 2007/571, reg 3).

5 Ie under the Local Government Finance Act 1992 s 32(4) (see para 262 ante): see s 33(1) (as amended: see note 4 supra).

6 See ibid s 33(1) (as amended: see note 4 supra). Where the aggregate calculated (or last calculated) by the authority for the year under s 32(2) (as amended) (see para 262 ante) does not exceed that so calculated under s 32(3) (as amended) (see para 262 ante), the amount for item R in s 33(1) (as amended) is nil: s 33(2).

7 For the meaning of 'redistributed non-domestic rates', and as to the meaning of references to sums payable for the financial year in respect of redistributed non-domestic rates, see para 262 note 13 ante. As to the funds established for the purposes of local government finance see LOCAL GOVERNMENT vol 29(1) (Reissue) para 545 et seq.

8 For the meaning of 'revenue support grant', and as to the meaning of references to sums payable for the financial year in respect of revenue support grant, see para 262 note 14 ante.

9 For the meaning of 'additional grant' see para 262 note 15 ante.

10 As to what constitutes the Common Council of the City of London for these purposes see para 229 note 4 ante.

11 See the Local Government Finance Act 1992 s 33(1) (as amended: see note 4 supra). For the meaning of 'police grant' see para 262 note 17 ante.

However, in the case of a Welsh county council or county borough council, the aggregate of the sums mentioned in item P in s 33(1) (as amended) must be reduced by the amount calculated in accordance with the following formula:

$$(J + K) - L$$

where J is the council's estimate of the amount by which the aggregate for the year of the chargeable amounts under the Local Government Finance Act 1988 Pt III (ss 41–67) (as amended) (non-domestic rating) (see para 7 et seq ante) will be less than it would be apart from s 47 (as amended) (discretionary relief) (see para 80 ante); K is the council's estimate of the reductions and remittances which will be made for the year under s 49 (as amended) (reduction or remission of liability) (see para 82 ante); L is the council's estimate of the deductions which, in pursuance of rules made by virtue of s 60, Sch 8 para 4(5)(a) (non-domestic rating contributions) (see para 1 ante), will be made for the year as regards the operation of ss 47, 49 (as amended): Local Government Finance Act 1992 s 33(3B) (added by the Local Government Reorganisation (Wales) (Calculation of Basic Amount of Council Tax) Order 1996, SI 1996/335, art 2). As to local government areas and authorities in Wales and their councils generally see LOCAL GOVERNMENT vol 29(1) (Reissue) para 41 et seq.

12 As to major precepting authorities for these purposes see para 228 note 21 ante.

13 See the Local Government Finance Act 1992 s 33(1) (as amended: see note 4 supra). 'Prescribed' means prescribed by regulations made by the Secretary of State (or by the Welsh Ministers, as the case may be): Local Government Finance Act 1992 s 116(1). As to the Secretary of State and the Welsh Ministers, and as to the making of regulations under the Local Government Finance Act 1992 generally, see para 228 ante. As to the period so prescribed see the Local Authorities (Calculation of Council Tax Base) Regulations 1992, SI 1992/612, reg 8 (amended by SI 1992/1742; and in relation to England only by SI 1999/3437; SI 2003/3012).

14 See the Local Government Finance Act 1992 s 33(3) (substituted by the Local Authorities (Alteration of Requisite Calculations and Funds) Regulations 1994, SI 1994/246, reg 4; amended by the Local

Government (Wales) Act 1994 Sch 12 para 5). The Local Government Finance Act 1992 s 33(3) (as substituted and amended) does not apply in relation to a Welsh county council or county borough council: s 33(3) (as so substituted and amended).

15 Ie in accordance with the Local Government Finance Act 1988 s 97(3) (as substituted) (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 548): see the Local Government Finance Act 1992 s 33(3) (as substituted and amended: see note 14 supra).

16 Ie subject to ibid s 33(3A) (as added): see s 33(3) (as substituted and amended: see note 14 supra). In the case of the Common Council of the City of London, item X in s 33(3) (as substituted and amended) must also include the amount of any sum which the Common Council estimates will be:

(1) transferred from its collection fund to its City fund pursuant to a direction under the Local Government Finance Act 1988 s 98(4) (as amended) (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 548) in respect of an amount calculated by reference to the provisional amount of its non-domestic rating contribution under Sch 8 Pt II (paras 4–7) (as amended) (see para 1 ante) (Local Government Finance Act 1992 s 33(3A)(a) (s 33(3A) added by the Local Authorities (Alteration of Requisite Calculations and Funds) Regulations 1994, SI 1994/246, reg 4)); and

(2) credited to a revenue account for the year (Local Government Finance Act 1992 s 33(3A)(b) (as so added)).

17 Ie under the Local Government Finance Act 1988 s 98(4) (as amended) (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 548): see the Local Government Finance Act 1992 s 33(3) (as substituted and amended: see note 14 supra).

18 Ibid s 33(3) item X para (i) (as substituted and amended: see note 14 supra). As to the charging of expenditure to revenue account see LOCAL GOVERNMENT vol 29(1) (Reissue) para 560 et seq. With effect from 1 April 1993, the community charge was abolished and replaced with the council tax: see para 227 ante.

19 Ibid s 33(3) item X para (ii) (as substituted and amended: see note 14 supra).

20 Ie in accordance with the Local Government Finance Act 1988 s 97(4) (as substituted) (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 548): see the Local Government Finance Act 1992 s 33(3) (as substituted and amended: see note 14 supra).

21 Ie a direction under the Local Government Finance Act 1988 s 98(5) (as amended) (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 548): see the Local Government Finance Act 1992 s 33(3) (as substituted and amended: see note 14 supra).

22 Ibid s 33(3) item Z para (i) (as substituted and amended: see note 14 supra).

23 Ibid s 33(3) item Z para (ii) (as substituted and amended: see note 14 supra).

24 Ie under ibid s 32(9) (as amended) (see para 262 note 23 ante): see s 33(4).

25 Ibid s 33(4). In exercise of the power so conferred, the following regulations have been made under s 33(4): the Billing Authorities (Alteration of Requisite Calculations and Transitional Reduction Scheme) (England) Regulations 1993, SI 1993/401; the Local Authorities (Alteration of Requisite Calculations and Funds) Regulations 1994, SI 1994/246; the Local Authorities (Alteration of Requisite Calculations and Funds) Regulations 1995, SI 1995/234; the Local Authorities (Alteration of Requisite Calculations) (Wales) Regulations 1999, SI 1999/296; the Local Authorities (Alteration of Requisite Calculations) (Wales) Regulations 2000, SI 2000/717; the Local Authorities (Alteration of Requisite Calculations) (Wales) Regulations 2002, SI 2002/328; the Local Authorities (Alteration of Requisite Calculations) (England) Regulations 2003, SI 2003/195; the Local Authorities (Alteration of Requisite Calculations) (England) Regulations 2004, SI 2004/243; the Local Authorities (Alteration of Requisite Calculations) (England) Regulations 2005, SI 2005/190; the Local Authorities (Alteration of Requisite Calculations) (England) Regulations 2006, SI 2006/247; the Local Authorities (Alteration of Requisite Calculations) (Wales) Regulations 2006, SI 2006/344; the Local Authorities (Alteration of Requisite Calculations) (England) Regulations 2007, SI 2007/227; the Local Authorities (Alteration of Requisite Calculations) (Wales) Regulations 2007, SI 2007/571; and the Local Authorities (Alteration of Requisite Calculations) (England) Regulations 2008, SI 2008/227.

26 Local Government Finance Act 1992 s 33(5). The following regulations are made under s 33(5), (6): see the Local Authorities (Calculation of Council Tax Base) Regulations 1992, SI 1992/612 (amended by SI 1992/1742; SI 1992/2943; SI 1995/2561; SI 1999/3123; SI 1999/3437; SI 2003/3012; SI 2003/3181); and the Local Authorities (Calculation of Council Tax Base) (Wales) Regulations 1995, SI 1995/2561 (amended by SI 1999/2935; SI 2004/3094).

27 Local Government Finance Act 1992 s 33(6). As to the regulations so made see note 26 supra.

264. Additional calculations where special items relate to part only of area. Where, for any financial year[1], an item (a 'special item')[2] relates to a part only of a billing authority's area[3], the authority must calculate the basic amount of its council tax[4] for

dwellings[5] in a part of its area to which no special item relates by applying the formula:

$$B - \left(\frac{A}{T}\right)$$

where B is the amount calculated (or last calculated) by the authority[6] as the basic amount of its council tax[7]; A is the aggregate amount of all special items[8]; and T is the amount determined for item T in the calculation of the basic amount of council tax[9].

The authority must calculate the basic amount of its council tax for dwellings in a part of its area to which one or more special items relate by adding to the amount given by the above formula the aggregate of the amounts which, in relation to each of those special items, are given by the formula:

$$\frac{S}{TP}$$

where S is (in each case) the amount of the special item[10]; and TP is (in each case) the amount of the authority's council tax base for the relevant part[11] as calculated by it for the year[12]. The Secretary of State (or the Welsh Ministers, as the case may be)[13] must make regulations[14] containing rules for making for any year any calculation required by item TP; and a billing authority must make the calculation for any year in accordance with the rules for the time being effective (as regards the year) under the regulations[15].

The special items referred to for these purposes are:

(1) any precept issued to or anticipated by the authority which is or is believed to be applicable to a part of its area and was taken into account by it in making the calculation (or last calculation) in relation to the year[16]; and

(2) any expenses of the authority which are its special expenses and were taken into account by it in making that calculation[17].

For the purposes of heads (1) and (2) above:

(a) provided a resolution of a billing authority to the following effect is in force, the expenses of meeting a levy or special levy[18] issued to or anticipated by it are its special expenses or (if the resolution relates to some only of those expenses) those to which the resolution relates are its special expenses[19];

(b) any expenses which a billing authority believes will have to be met out of amounts transferred or to be transferred from its collection fund to its general fund[20], and which arise out of its possession of property held in trust for a part of its area, are its special expenses[21];

(c) any expenses which a billing authority believes will have to be met out of amounts transferred or to be transferred from its collection fund to its general fund, and which relate to a part of its area, are its special expenses provided that expenses of the same kind which relate to another part of its area are to be met out of property held in trust for that part[22];

(d) any expenses incurred by a billing authority in performing in a part of its area a function performed elsewhere in its area by the sub-treasurer of the Inner Temple[23], the under-treasurer of the Middle Temple[24], a parish or community council or the chairman of a parish meeting[25] are the authority's special expenses unless a resolution of the authority to the contrary effect is in force[26]; and

(e) provided a resolution of a billing authority to the following effect is in force, the expenses incurred by it in performing in a part of its area a function performed elsewhere in its area by a body with power to issue a levy or special levy to it are its special expenses or (if the resolution relates to some only of those expenses) those to which the resolution relates are its special expenses[27].

The following rules apply to the making of a resolution under head (e) above by a billing authority:

(i) no such resolution may be made unless the body mentioned in head (e) above is one in relation to which the billing authority has made under head (a) above a resolution which is in force[28];

(ii) the resolution under head (e) above may not be made so as to be in force at any time when that under head (a) above is not in force[29];

(iii) the fact that the resolution under head (a) above relates to all the expenses concerned does not mean that the resolution under head (e) above must relate to all the expenses concerned[30]; and

(iv) the fact that the resolution under head (a) above relates to part of the expenses concerned does not mean that the resolution under head (e) above must relate to part, or any particular part, of the expenses concerned[31].

1 For the meaning of 'financial year' see para 231 note 1 ante.

2 'Special item' means any item mentioned in the Local Government Finance Act 1992 s 35(1) (see heads (1) and (2) in the text) which relates to a part only of a billing authority's area: see s 34(1). As to billing authorities see para 229 ante.

3 See ibid s 34(1).

4 As to council tax see para 227 et seq ante.

5 For the meaning of 'dwelling' see para 232 ante.

6 Ie under the Local Government Finance Act 1992 s 33(1) (as amended) (see para 263 ante): see s 34(2).

7 See ibid s 34(2).

8 See ibid s 34(2).

9 See ibid s 34(2). The text refers to the amount determined for item T in s 33(1) (as amended) (see para 263 ante): see s 34(2).

10 See ibid s 34(3).

11 'Relevant part', in relation to a special item, means the part (of the billing authority's area) concerned: see ibid s 34(1).

12 See ibid s 34(3).

13 As to the Secretary of State and the Welsh Ministers see para 228 ante.

14 As to the making of regulations under the Local Government Finance Act 1992 generally see para 228 ante. In exercise of the power so conferred, the following regulations have been made under s 34(4): see the Local Authorities (Calculation of Council Tax Base) Regulations 1992, SI 1992/612 (amended by SI 1992/1742; SI 1992/2943; SI 1995/2561; SI 1999/3123; SI 1999/3437; SI 2003/3012; SI 2003/3181); and the Local Authorities (Calculation of Council Tax Base) (Wales) Regulations 1995, SI 1995/2561 (amended by SI 1999/2935; SI 2004/3094).

15 Local Government Finance Act 1992 s 34(4).

16 Ibid s 35(1)(a). The text refers to the calculation made under s 32(2) (as amended) (see para 262 ante): see s 35(1)(a). As to precepts see para 1 ante.

17 Ibid s 35(1)(b). Expenses of a billing authority are not to be treated as its special expenses for the purposes of s 35(1) if they are expenses of meeting a levy issued to it by, or anticipated by it from, a National Park authority in relation to a National Park in Wales: s 35(5) (added by the Local Government (Wales) Act 1994 s 38(11), Sch 12 para 6; amended by the Environment Act 1995 ss 78, 120(3), Sch 10 para 35, Sch 24). For the meaning of 'levy' see para 262 note 5 ante.

18 For the meaning of 'special levy' see para 262 note 5 ante.

19 Local Government Finance Act 1992 s 35(2)(a).

20 Any reference to a billing authority's general fund is to be construed in relation to the Common Council of the City of London as a reference to the City fund: ibid s 69(2)(c). As to what constitutes the Common Council of the City of London for these purposes see para 229 note 4 ante. As to the funds established for the purposes of local government finance see LOCAL GOVERNMENT vol 29(1) (Reissue) para 545 et seq.

21 Ibid s 35(2)(b). Head (b) in the text is substituted in relation to a Welsh county council or county borough council so that any expenses incurred by a billing authority and arising in connection with property which it holds in trust for a part of its area are its special expenses: see s 35(2)(b) (s 35(2)(b), (c) substituted in relation to a Welsh county council or county borough council by s 35(4) (added by the Local Government (Wales) Act 1994 s 38(11), Sch 12 para 6)). As to local government areas and authorities in Wales and their councils generally see LOCAL GOVERNMENT vol 29(1) (Reissue) para 41 et seq.

22 Local Government Finance Act 1992 s 35(2)(c). Head (c) in the text is substituted in relation to a Welsh county council or county borough council so that any expenses incurred by a billing authority which relate to a part of its area and which are of the same kind as expenses which both relate to another part of its area and are to be met out of property held in trust for that part, are its special expenses: see s 35(2)(c) (as substituted: see note 21 supra).
23 As to the Inner Temple see LONDON GOVERNMENT vol 29(2) (Reissue) para 32 et seq; and see para 229 note 4 ante.
24 As to the Middle Temple see LONDON GOVERNMENT vol 29(2) (Reissue) para 32 et seq; and see para 229 note 4 ante.
25 As to local government areas and authorities in England and their councils generally see LOCAL GOVERNMENT vol 29(1) (Reissue) para 25 et seq.
26 Local Government Finance Act 1992 s 35(2)(d).
27 Ibid s 35(2)(e).
28 Ibid s 35(3)(a).
29 Ibid s 35(3)(b).
30 Ibid s 35(3)(c).
31 Ibid s 35(3)(d).

265. Substitute calculations. A billing authority[1] which has made the requisite calculations[2] in relation to a financial year[3] (originally or by way of substitute) may make calculations in substitution in relation to the year[4].

1 As to billing authorities see para 229 ante.
2 Ie in accordance with the Local Government Finance Act 1992 ss 32–36 (as amended) (see paras 262–264 ante): see s 37(1).
3 For the meaning of 'financial year' see para 231 note 1 ante.
4 Local Government Finance Act 1992 s 37(1). The text refers to calculations being made in substitution in relation to the year in accordance with ss 32–36 (as amended) (see paras 262–264 ante), ignoring s 32(10) (see para 262 ante) for this purpose: see s 37(1).

None of the substitute calculations is to have any effect if:

(1) the amount calculated under s 32(4) (see para 262 ante), or any amount calculated under s 33(1) (as amended) (see para 263 ante) or s 34(2) or s 34(3) (see para 264 ante) as the basic amount of council tax applicable to any dwelling, would exceed that so calculated in the previous calculations (s 37(2)(a)); or
(2) the billing authority fails to comply with s 37(3) in making the substitute calculations (s 37(2)(b)).

For the meaning of 'dwelling' see para 232 ante. As to council tax generally see para 227 et seq ante. For the purposes of s 37(2)(a), one negative amount must be taken to exceed another if it is closer to nil (so that minus £1 must be taken to exceed minus £2): s 37(4). In making substitute calculations under s 33(1) (as amended) or s 34(3), the billing authority must use any amount determined in the previous calculations for item P or item T in s 33(1) (as amended) or item TP in s 34(3): s 37(3). For the purposes of s 37(3), the billing authority may treat any amount determined in the previous calculations for item P in s 33(1) (as amended) as increased by the amount of any sum which:

(a) it estimates will be payable for the year into its general fund or (as the case may be) council fund in respect of additional grant (s 37(5)(a) (amended by the Local Government (Wales) Act 1994 s 38(11), Sch 12 para 7)); and
(b) was not taken into account by it in making those calculations (Local Government Finance Act 1992 s 37(5)(b)).

For the meaning of 'additional grant' see para 262 note 15 ante. As to the funds established for the purposes of local government finance generally see LOCAL GOVERNMENT vol 29(1) (Reissue) para 545 et seq. As to references to a billing authority's general fund for these purposes see para 264 note 20 ante.

However, s 37(2), (3) does not apply if the previous calculations have been quashed because of a failure to comply with ss 32–36 (as amended) in making the calculations: s 37(6).

266. Information for purposes of the setting of council tax. If the Secretary of State (or the Welsh Ministers, as the case may be)[1] so requires by regulations[2], a precepting authority[3] must supply prescribed information[4] within a prescribed period to any billing authority[5] to which it has power to issue a precept[6]. A billing authority which has set amounts for different categories of dwellings[7] (originally or by way of substitute) must, before the end of the period of 21 days beginning with the day of doing so, publish a notice of the amounts in at least one newspaper circulating in the authority's area[8].

1 As to the Secretary of State and the Welsh Ministers see para 228 ante.
2 As to the making of regulations under the Local Government Finance Act 1992 generally see para 228 ante. In exercise of the power so conferred, the following regulations have been made under s 38(1): see the Local Authorities (Calculation of Council Tax Base) (Supply of Information) Regulations 1992, SI 1992/2904 (amended by SI 1995/3150).
3 As to precepting authorities for these purposes see para 228 note 21 ante.
4 As to the meaning of 'information' see para 228 note 23 ante. 'Prescribed' means prescribed by regulations made by the Secretary of State (or by the Welsh Ministers, as the case may be): Local Government Finance Act 1992 s 116(1). As to the regulations so made under s 38(1) see note 2 supra.
5 As to billing authorities see para 229 ante.
6 Local Government Finance Act 1992 s 38(1). As to local government finance generally see LOCAL GOVERNMENT vol 29(1) (Reissue) para 514 et seq.
7 Ie in accordance with ibid s 30 (as amended) (see para 260 ante): see s 38(2). For the meaning of 'dwelling' see para 232 ante.
8 Ibid s 38(2). Failure to comply with s 38(2) does not make the setting of amounts invalid: s 38(3).

267. Limitation of council tax. The provisions relating to limitation of council tax[1] apply separately to England and Wales[2] with modifications[3].

1 Ie the Local Government Finance Act 1992 Pt I Ch VA (ss 52A–52Z) (as added and amended) (see LOCAL GOVERNMENT vol 29(1) (Reissue) paras 528, 529).
2 For the meanings of 'England' and 'Wales' see para 1 note 2 ante.
3 See the Local Government Finance Act 1992 s 52Z (as added and substituted).

(4) VALUATION LISTS

268. Valuations for purposes of lists. The Commissioners for Revenue and Customs[1] must[2]:

(1) carry out such valuations of dwellings[3] in England and Wales[4];
(2) furnish listing officers[5] with such information[6] obtained in carrying out the valuations or in the exercise of their powers to obtain information about properties[7]; and
(3) disclose to such officers such contents of particulars delivered documents[8],

as they consider necessary or expedient for the purpose of facilitating the compilation and maintenance by those officers of valuation lists in accordance with the statutory provisions[9].

The valuations must be carried out by reference to the appropriate date[10] and on such assumptions and in accordance with such principles as may be prescribed[11].

Without prejudice to the generality of their powers, the Commissioners for Revenue and Customs may appoint persons who are not in the service of the Crown to assist them in carrying out the valuations[12]; and, for the purposes of the valuations, the Commissioners may disclose to a person so appointed:

(a) any survey report obtained for any purpose of rating, including non-domestic rating[13]; and
(b) any information obtained in the exercise of their powers to obtain information about properties[14].

If any person to whom any report or information is so disclosed uses or discloses the report or information, in whole or in part, otherwise than for the purposes of the valuations, he is liable on conviction on indictment to imprisonment for a term not exceeding two years or a fine or both[15], and on summary conviction to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum[16] or both[17].

1 As to the Commissioners for Revenue and Customs see CUSTOMS AND EXCISE vol 12(3) (2007 Reissue) para 900 et seq.
2 Local Government Finance Act 1992 s 21(1).

3 For the meaning of 'dwelling' see para 232 ante.

4 Local Government Finance Act 1992 s 21(1)(a). For the meanings of 'England' and 'Wales' see para 1 note 2 ante. As to powers of entry for the purposes of valuation see para 275 post.

5 As to listing officers see para 230 ante.

6 As to the meaning of 'information' see para 228 note 23 ante.

7 Local Government Finance Act 1992 s 21(1)(b). The text refers to exercise of the powers conferred by s 27 (prospectively amended) (see para 276 post): see s 21(1)(b).

8 Ibid s 21(1)(c). For these purposes, 'particulars delivered document' means any document which, having been (whether before or after 6 March 1992): (1) produced to the Commissioners for Revenue and Customs in pursuance of the Finance Act 1931 s 28 (as amended) (see STAMP DUTIES AND STAMP DUTY RESERVE TAX vol 44(1) (Reissue) para 1026); or (2) furnished to them in pursuance of s 28 (as amended), Sch 2 (as substituted) (see STAMP DUTIES AND STAMP DUTY RESERVE TAX vol 44(1) (Reissue) para 1026), is for the time being in their possession or under their control: Local Government Finance Act 1992 s 69(1).

9 Ibid s 21(1). The text refers to the statutory provisions of Pt I Ch II (ss 20–29) (as amended) (valuation lists) (see paras 230 ante, 269 et seq post): see s 21(1). As to the compilation and maintenance of new lists see para 271 post.

10 For these purposes, the 'appropriate date' is:

(1) in relation to a list under ibid s 22 (as amended) (see para 269 post), 1 April 1991 (s 21(2A)(a) (s 21(2A), (2B) added by the Local Government Act 2003 s 127(1), Sch 7 paras 40, 44)); and

(2) in relation to a list under the Local Government Finance Act 1992 s 22B (as added and amended) (see para 271 post), the later of:

(a) two years before the date on which the list falls to be compiled (s 21(2A)(b)(i) (as so added)); and

(b) such date, if any, within that two year period as may be specified by regulations (s 21(2A)(b)(ii) (as so added)).

The power to make regulations under head (2)(b) supra is exercisable:

(i) in relation to a list to be compiled for a billing authority in England, by the Secretary of State (s 21(2B)(a) (as so added)); and

(ii) in relation to a list to be compiled for a billing authority in Wales, by the Welsh Ministers (s 21(2B)(b) (as so added)).

As to billing authorities see para 229 ante. As to the Secretary of State and the Welsh Ministers, and as to the making of regulations under the Local Government Finance Act 1992 generally, see para 228 ante. At the date at which this volume states the law, no such regulations had been made under s 21(2A), (2B) (as added).

11 Ibid s 21(2) (amended by the Local Government Act 2003 Sch 7 paras 40, 44). 'Prescribed' means prescribed by regulations made by the Secretary of State (or by the Welsh Ministers, as the case may be): Local Government Finance Act 1992 s 116(1). As to the regulations so made under s 21(2) see the Council Tax (Situation and Valuation of Dwellings) Regulations 1992, SI 1992/550, Pt III (regs 6–7) (amended by SI 1994/1747; and in relation to Wales only by SI 2005/701). The method of valuation prescribed by the Council Tax (Situation and Valuation of Dwellings) Regulations 1992, SI 1992/550, reg 7 (valuation of dwelling which is, or is contained in, a composite hereditament) is discussed in *Atkinson v Cumbria Valuation Tribunal* (1997) 96 LGR 721, CA, sub nom *Atkinson v Lord (Listing Officer)* [1997] RA 413, CA.

12 Local Government Finance Act 1992 s 21(3).

13 Ibid s 21(4)(a). As to non-domestic rating see para 4 et seq ante.

14 Ibid s 21(4)(b). The text refers to exercise of the powers conferred by s 27 (prospectively amended) (see para 276 post): see s 21(4)(b). Except as provided by s 21(4), nothing in s 21 (as amended) permits the disclosure to any person appointed under s 21(3) of information which is subject to the rules of confidentiality applicable to the Commissioners for Revenue and Customs (see CUSTOMS AND EXCISE vol 12(3) (2007 Reissue) para 919): s 21(6).

15 Ibid s 21(5)(a).

16 'Statutory maximum', with reference to a fine or penalty on summary conviction for an offence, is the prescribed sum within the meaning of the Magistrates' Courts Act 1980 s 32 (as amended): see the Interpretation Act 1978 s 5, Sch 1 (definition added by the Criminal Justice Act 1988 s 170(1), Sch 15 para 58); and CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(4) (2006 Reissue) para 1674; MAGISTRATES vol 29(2) (Reissue) para 804. 'Prescribed sum' means £5,000 or such sum as is for the time being substituted in this definition by order under the Magistrates' Courts Act 1980 s 143(1) (as substituted): see s 32(9) (amended by the Criminal Justice Act 1991 s 17(2)); and CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(4) (2006 Reissue) para 1675; MAGISTRATES vol 29(2) (Reissue) para 804.

17 Local Government Finance Act 1992 s 21(5)(b).

269. Compilation and maintenance of first valuation lists. The listing officer[1] for a billing authority[2] had to compile, and was placed under a duty to maintain, a list for the authority (to be called its 'valuation list') in accordance with the statutory provisions[3].

The list had to be compiled on 1 April 1993 (and came into force on that day) and was to remain in force until a new list for the authority was compiled[4]. Before the first list was compiled, the listing officer had to take such steps as were reasonably practicable in the time available to ensure that it was accurately compiled on 1 April 1993[5].

The listing officer had to send to the billing authority a copy of the list which he proposed (on the information[6] then before him) to compile[7]. As soon as reasonably practicable after so receiving the copy, the authority had to deposit it at its principal office and take such steps as it thought most suitable for giving notice of it[8]. As soon as reasonably practicable after compiling a list, the listing officer had to send a copy of it to the authority[9]. As soon as reasonably practicable after so receiving the copy the authority had to deposit it at its principal office[10].

The list was to be maintained for so long as is necessary for the purposes of Part I of the Local Government Finance Act 1992[11].

1 As to listing officers see para 230 ante.

2 As to billing authorities see para 229 ante.

3 Local Government Finance Act 1992 s 22(1). The text refers to the statutory provisions of Pt I Ch II (ss 20–29) (as amended) (valuation lists) (see paras 230, 268 ante, 270 et seq post): see s 22(1).

4 Ibid s 22(2) (amended by the Local Government Act 2003 s 127(1), Sch 7 paras 40, 45). The text refers to the compilation (and maintenance) of new lists under the Local Government Finance Act 1992 s 22B (as added and amended) (see para 271 post): see s 22(2) (as so amended). Section 22(2)–(8) (as amended) does not apply in relation to an amalgamated valuation list for Welsh billing authorities: see s 22A(6) (as added); and para 270 post.

5 Ibid s 22(3). Any valuation of a dwelling carried out by the listing officer in pursuance of s 22(3) had to be carried out in accordance with s 21(2) (as amended) (see para 268 ante): s 22(4).

6 As to the meaning of 'information' see para 228 note 23 ante.

7 See the Local Government Finance Act 1992 s 22(5). The copy of the list referred to in the text had to be sent at the following times, namely: (1) not later than 1 September 1992 (s 22(5)(a)); and (2) not earlier than 15 November 1992 and not later than 1 December 1992 (s 22(5)(b)).

8 Ibid s 22(6).

9 Ibid s 22(7).

10 Ibid s 22(8).

11 Ibid s 22(9). The text refers to the purposes of Pt I (ss 1–69) (as amended) (see paras 228 et seq ante, 270 et seq post): see s 22(9).

270. Amalgamated valuation lists for Welsh billing authorities. On 1 April 1996, every new listing officer[1] appointed for a new billing authority had to compile a list (the 'amalgamated list') for that authority, based on the information[2] provided for him as follows[3].

The amalgamated list had to contain information which was included in the valuation lists[4] compiled on 1 April 1993 for the old billing authorities (the 'current lists') so far as that was relevant information[5]. The amalgamated list also had to include relevant information which was included in any current list by way of an alteration[6]. A new listing officer's amalgamated list must be treated, for the purposes of the Local Government Finance Act 1992, as the valuation list for his new billing authority and is deemed to have come into force on 1 April 1993[7]. Where an amalgamated list contains information which is derived from any alteration made to any valuation list or lists from which it is derived, the amalgamated list must be treated as having been varied on the date on which the alteration was made[8].

Every listing officer had to:

(1) on or before 15 November 1995, provide the appropriate new listing officer[9] with relevant information recorded in his valuation list[10] as at 31 October 1995[11]; and

(2) on 31 March 1996, provide the appropriate new listing officer with relevant information recorded in his valuation list as at that date[12].

A new listing officer receiving any information under head (1) above had to send a copy of it to his new billing authority as soon as reasonably practicable[13]. As soon as reasonably practicable after compiling the amalgamated list, a new listing officer had to send a copy of it to his new billing authority[14]. A new billing authority receiving a copy of an amalgamated list in this way had to, as soon as reasonably practicable, deposit it at its principal office[15].

1 For these purposes, 'new listing officer' means a listing officer for a new billing authority: Local Government Finance Act 1992 s 22A(11) (s 22A added by the Local Government (Wales) Act 1994 s 36). 'Listing officer' means a listing officer for an old billing authority: Local Government Finance Act 1992 s 22A(11) (as so added). 'New billing authority' means an authority which is a new principal council (see para 1 note 4 ante); and 'new principal council' has the same meaning as in the Local Government (Wales) Act 1994 (see para 1 note 4 ante): Local Government Finance Act 1992 s 22A(11) (as so added). 'Old billing authority' means a billing authority which is an old authority; and 'old authority' has the same meaning as in the Local Government (Wales) Act 1994 (see para 1 note 4 ante): Local Government Finance Act 1992 s 22A(11) (as so added). As to billing authorities generally see para 229 ante; and as to listing officers generally see para 230 ante.

2 As to the meaning of 'information' see para 228 note 23 ante. Information is relevant in relation to a new listing officer, or his area, if it relates to a dwelling which is in his area: ibid s 22A(12)(d) (as added: see note 1 supra). A new listing officer's area is the area of the new billing authority for which he is appointed: s 22A(12)(b) (as so added). For the meaning of 'dwelling' see para 232 ante.

3 See ibid s 22A(1) (as added: see note 1 supra). Section 22(2)–(8) (as amended) (see para 269 ante) does not apply in relation to an amalgamated list: s 22A(6) (as so added). As to the compilation and maintenance of new lists see para 271 post.

4 As to valuation lists see paras 268 et seq ante, 271 et seq post.

5 See the Local Government Finance Act 1992 s 22A(2) (as added: see note 1 supra).

6 See ibid s 22A(3) (as added: see note 1 supra).

7 Ibid s 22A(4) (as added: see note 1 supra).

8 Ibid s 22A(5) (as added: see note 1 supra).

9 The appropriate new listing officer, in relation to any information which relates to a dwelling, is the new listing officer for the new billing authority in whose area the dwelling is situated: ibid s 22A(12)(c) (as added: see note 1 supra).

10 References to a listing officer's valuation list are references to the valuation list maintained by him under the Local Government Finance Act 1992: s 22A(12)(a) (as added: see note 1 supra).

11 See ibid s 22A(7)(a) (as added: see note 1 supra).

12 See ibid s 22A(7)(b) (as added: see note 1 supra).

13 Ibid s 22A(8) (as added: see note 1 supra).

14 Ibid s 22A(9) (as added: see note 1 supra).

15 Ibid s 22A(10) (as added: see note 1 supra).

271. Compilation and maintenance of new lists. The listing officer[1] for a billing authority[2] must compile, and then maintain, new lists for the authority in accordance with the statutory provisions[3] (each such list to be called its 'valuation list')[4].

A new list must be compiled:

(1) in relation to billing authorities in England[5], on 1 April in each year specified by order made by the Secretary of State[6]; and

(2) in relation to billing authorities in Wales[7], on 1 April 2005[8], and, after that, on the earlier of the tenth anniversary of the compilation of the previous list and 1 April in such year as may be specified by order made by the Welsh Ministers[9].

A new list is to come into force on the day on which it is compiled and will remain in force until the next such list is compiled[10]. The duty to maintain a new list[11] continues for so long as is necessary for the purposes of Part I of the Local Government Finance Act 1992[12] and is not affected by the list ceasing to be in force[13].

Before a new list is compiled[14], the listing officer must take such steps as are reasonably practicable in the time available to ensure that it is accurately compiled on the date on which it is to be compiled[15].

Where a new list is to be compiled[16], the listing officer for a billing authority must send the authority a copy of the list he proposes to compile (on the information[17] then before him) not later than 1 September before the date on which it is to be compiled[18]. As soon as reasonably practicable after receiving such a copy list, a billing authority must deposit it at its principal office and take such steps as it thinks most suitable for giving notice of it[19].

As soon as reasonably practicable after the listing officer for a billing authority has compiled a new list[20], he must send a copy of it to the authority[21]. As soon as reasonably practicable after receiving such a copy list, a billing authority must deposit it at its principal office[22].

The Secretary of State (or the Welsh Ministers, as the case may be) may by regulations[23] make provision for the purpose of smoothing changes in council tax liability resulting from the coming into force in relation to a billing authority in England (or in Wales, as the case may be) of a new list[24]. Such regulations may, in particular:

(a) make provision about the circumstances in which changes are to be smoothed[25];
(b) make provision for changes to be smoothed over such one or more financial years as may be specified in the regulations[26];
(c) make provision for liability for any financial year to be determined in accordance with such rules as may be so specified, which may result in liability being the same as or different from what it would otherwise be[27].

Such regulations may make different provision for different financial years[28].

1 As to listing officers see para 230 ante.
2 As to billing authorities see para 229 ante.
3 Ie the statutory provisions of the Local Government Finance Act 1992 Pt I Ch II (ss 20–29) (as amended) (valuation lists) (see paras 230, 268 et seq ante, 272 et seq post): see s 22B(1) (as added: see note 4 infra).
4 Ibid s 22B(1) (s 22B added by the Local Government Act 2003 s 77).
5 For the meaning of 'England' see para 1 note 2 ante.
6 Local Government Finance Act 1992 s 22B(1A) (s 22B as added (see note 4 supra); s 22B(1A) added by the Council Tax (New Valuation Lists for England) Act 2006 s 1(1), (2)). No order under head (1) in the text may be made unless a draft of the order has been laid before, and approved by resolution of, the House of Commons: Local Government Finance Act 1992 s 22B(11) (as added (see note 4 supra); amended by the Council Tax (New Valuation Lists for England) Act 2006 s 1(1), (5)). As to the Secretary of State see para 228 ante. At the date at which this volume states the law, no such order had been made.
7 For the meaning of 'Wales' see para 1 note 2 ante.
8 Local Government Finance Act 1992 s 22B(2) (as added (see note 4 supra); amended by the Council Tax (New Valuation Lists for England) Act 2006 s 1(1), (3)).
9 Local Government Finance Act 1992 s 22B(3) (as added (see note 4 supra); amended by the Council Tax (New Valuation Lists for England) Act 2006 s 1(1), (4)). As to the Welsh Ministers see para 228 ante. At the date at which this volume states the law, no such order had been made.
10 Local Government Finance Act 1992 s 22B(4) (as added: see note 4 supra).
11 Ie a list compiled under ibid s 22B (as added and amended): see s 22B(5) (as added: see note 4 supra).
12 Ie the purposes of ibid Pt I (ss 1–69) (as amended) (see paras 228 et seq ante, 272 et seq post): see s 22B(5) (as added: see note 4 supra).
13 Ibid s 22B(5) (as added: see note 4 supra).
14 Ie under ibid s 22B (as added and amended): see s 22B(6) (as added: see note 4 supra).
15 Ibid s 22B(6) (as added: see note 4 supra).
16 Ie under ibid s 22B (as added and amended): see s 22B(7) (as added: see note 4 supra).
17 As to the meaning of 'information' see para 228 note 23 ante.
18 Local Government Finance Act 1992 s 22B(7) (as added: see note 4 supra).
19 Ibid s 22B(8) (as added: see note 4 supra).
20 Ie under ibid s 22B (as added and amended): see s 22B(9) (as added: see note 4 supra).
21 Ibid s 22B(9) (as added: see note 4 supra).
22 Ibid s 22B(10) (as added: see note 4 supra).

23 As to the making of regulations under the Local Government Finance Act 1992 generally see para 228 ante. As to the regulations so made see note 24 infra.

24 See the Local Government Finance Act 1992 s 13B(1), (2) (s 13B added by the Local Government Act 2003 s 79). The text refers to changes in council tax liability resulting from the coming into force as mentioned in the text of a list under the Local Government Finance Act 1992 s 22B (as added and amended): see s 13B(1), (2) (as so added). As to council tax generally see para 227 et seq ante; and as to liability to council tax see para 231 et seq ante.

To the extent that he (or they) would not have power to do so apart from this provision, the Secretary of State (or the Welsh Ministers, as the case may be) may:

(1) include in regulations made by him (or them) under the Local Government Finance Act 1992 s 13B (as added) such amendments of any social security instrument as he (or they) think expedient in consequence of the regulations (s 13B(5)(a) (as so added));

(2) include in any social security instrument such provision as he (or they) think expedient in consequence of regulations under s 13B (as added) (s 13B(5)(b) (as so added)).

For the meaning of 'social security instrument' for these purposes see para 257 note 29 ante; definition applied by s 13B(6) (as so added). As to the regulations made in exercise of the powers conferred under s 13B(2) (as added) see the Council Tax (Transitional Arrangements) (Wales) Regulations 2004, SI 2004/3142 (amended by SI 2005/702), which make transitional arrangements for the period from 1 April 2005 to 31 March 2008 in relation to Wales.

25 Local Government Finance Act 1992 s 13B(3)(a) (as added: see note 24 supra).

26 Ibid s 13B(3)(b) (as added: see note 24 supra).

27 Ibid s 13B(3)(c) (as added: see note 24 supra).

28 Ibid s 13B(4) (as added: see note 24 supra). This provision is expressed to be without prejudice to s 113(1) (as amended) (see para 228 ante): see s 13B(4) (as so added).

272. Contents of lists. A valuation list[1] must show, for each day for which it is in force, each dwelling[2] which is situated in the billing authority's[3] area[4]. For each day on which a dwelling is shown in a list, the list must also show which of the valuation bands is applicable to the dwelling[5]. A list must also contain such information[6] about dwellings shown in it as may be prescribed[7]. Accordingly, for each day on which a dwelling is shown in a valuation list[8], the list must also contain[9]:

(1) the reference number ascribed to the dwelling by the listing officer[10];

(2) if it be the case, an indication that the dwelling is a composite hereditament[11];

(3) where the list is altered as regards the dwelling[12], an indication:

(a) of the period for which (or, as the case may be, the day from which) the alteration has effect[13]; and

(b) if it be the case, that the alteration was made pursuant to the order of a valuation tribunal or the High Court[14].

The omission from a list of any matter required to be included in it does not of itself render the list invalid[15]. Any rules as to Crown exemption which otherwise would have applied[16] do not prevent a list showing a dwelling, showing the valuation band applicable to a dwelling and containing any prescribed information about a dwelling[17].

1 As to valuation lists see paras 268 et seq ante, 273 et seq post.

2 For the meaning of 'dwelling' see para 232 ante.

3 As to billing authorities see para 229 ante.

4 Local Government Finance Act 1992 s 23(1).

5 Ibid s 23(2). As to valuation bands see para 244 ante.

6 As to the meaning of 'information' see para 228 note 23 ante.

7 Local Government Finance Act 1992 s 23(3). 'Prescribed' means prescribed by regulations made by the Secretary of State (or by the Welsh Ministers, as the case may be): s 116(1). As to the Secretary of State and the Welsh Ministers, and as to the making of regulations under the Local Government Finance Act 1992 generally, see para 228 ante. As to the regulations so made under s 23(3) see the text and notes 8–14 infra.

8 Ie a valuation list compiled under ibid s 22 (as amended) (see para 269 ante) or s 22A (as added) (see para 270 ante): see the Council Tax (Contents of Valuation Lists) Regulations 1992, SI 1992/553, reg 1(2) (amended by SI 1996/619).

9 Council Tax (Contents of Valuation Lists) Regulations 1992, SI 1992/553, reg 2. The information specified in heads (1) to (3) in the text is in addition to the matters required to be shown by the Local

Government Finance Act 1992 s 23(1), (2) (see the text and notes 1–5 supra): see the Council Tax (Contents of Valuation Lists) Regulations 1992, SI 1992/553, reg 2.

10 Ibid reg 2(a).

11 Ibid reg 2(b). The text refers to a dwelling being a hereditament to which the Local Government Finance Act 1992 s 3(3) (composite hereditaments) (see para 232 ante) applies: see the Council Tax (Contents of Valuation Lists) Regulations 1992, SI 1992/553, reg 2(b).

12 As to alterations to valuation lists see para 273 et seq post.

13 Council Tax (Contents of Valuation Lists) Regulations 1992, SI 1992/553, reg 2(c)(i).

14 Ibid reg 2(c)(ii). As to alterations made pursuant to valuation list appeals see para 273 et seq post.

15 Local Government Finance Act 1992 s 23(4).

16 Ie would have applied apart from ibid s 23(5): see s 23(5). As to Crown exemption from council tax see para 242 ante.

17 Ibid s 23(5).

273. Provision made for the alteration of lists. The Secretary of State (or the Welsh Ministers, as the case may be)[1] may make regulations[2] about the alteration by listing officers[3] of valuation lists which have been compiled under the statutory provisions[4].

The regulations may include provision:

(1) that where a listing officer intends to alter the list with a view to its being accurately maintained, he must not alter it unless prescribed[5] conditions (as to notice or otherwise) are fulfilled[6];

(2) that any valuation of a dwelling[7] carried out in connection with a proposal for the alteration of the list must be carried out in accordance with the statutory provisions that apply to the compilation and maintenance of such lists[8];

(3) that no alteration may be made of a valuation band[9] shown in the list as applicable to any dwelling unless[10]:

(a) since the valuation band was first shown in the list as applicable to the dwelling: (i) there has been a material increase[11] in the value of the dwelling and a relevant transaction[12] has been subsequently carried out in relation to the whole or any part of it[13]; (ii) there has been a material reduction[14] in the value of the dwelling[15]; (iii) the dwelling has become or ceased to be a composite hereditament for the purposes of the non-domestic rating provisions[16]; or (iv) in the case of a dwelling which continues to be such a hereditament, there has been an increase or reduction in its domestic use[17], and (in any case) prescribed conditions are fulfilled[18];

(b) the listing officer is satisfied that a different valuation band should have been determined by him as applicable to the dwelling[19] or the valuation band shown in the list is not that determined by him as so applicable[20]; or

(c) an order of a valuation tribunal or of the High Court[21] requires the alteration to be made[22];

(4) as to who (other than a listing officer) may make a proposal for the alteration of the list with a view to its being accurately maintained[23];

(5) as to the manner and circumstances in which a proposal may be made and the information to be included in a proposal[24];

(6) as to the period within which a proposal must be made[25];

(7) as to the procedure for and subsequent to the making of a proposal[26];

(8) as to the circumstances in which and the conditions upon which a proposal may be withdrawn[27];

(9) requiring the listing officer to inform other prescribed persons of the proposal in a prescribed manner[28];

(10) that, where there is a disagreement between the listing officer and another

person making a proposal for the alteration of a list either about the validity of the proposal or about the accuracy of the list, an appeal may be made to a valuation tribunal[29];

(11) as to the period for which or day from which an alteration of a list is to have effect (including provision that it is to have retrospective effect)[30];

(12) requiring a list to be altered so as to indicate the effect (retrospective or otherwise) of the alteration[31];

(13) requiring the listing officer to inform prescribed persons of an alteration within a prescribed period[32];

(14) requiring the listing officer to keep for a prescribed period a record of the state of the list before the alteration was made[33];

(15) as to financial adjustments to be made as a result of alterations, including provision requiring payments or repayments to be made[34]; and provision as to the recovery (by deduction or otherwise) of sums due[35].

The regulations may include provision that where the listing officer for a billing authority has informed the authority of an alteration of the list[36], and where a copy of the list has been deposited by the authority at its principal office[37], the authority must alter the copy accordingly[38].

1 As to the Secretary of State and the Welsh Ministers see para 228 ante.

2 As to the making of regulations under the Local Government Finance Act 1992 generally see para 228 ante. In exercise of the power so conferred, the following regulations have been made under s 24(1): see the Council Tax (Alteration of Lists and Appeals) Regulations 1993, SI 1993/290 (amended by SI 1994/1746; SI 1995/363; and in relation to Wales only by SI 1996/619; SI 2001/1439; SI 2005/181; in relation to England only by SI 2000/409; SI 2006/3395); and see para 274 post.

3 As to listing officers see para 230 ante.

4 Local Government Finance Act 1992 s 24(1). The text refers to valuation lists which have been compiled under Pt I Ch II (ss 20–29) (as amended) (valuation lists) (see paras 230, 268 et seq ante, 275 et seq post): see s 24(1). The provisions of s 24(2)–(10) (as amended) (see the text and notes 5–38 infra) apply for the purposes of s 24(1): see s 24(1).

5 'Prescribed' means prescribed by regulations made by the Secretary of State (or by the Welsh Ministers, as the case may be): ibid s 116(1). As to the regulations so made see note 2 supra.

6 Local Government Finance Act 1992 s 24(2). See note 2 supra.

7 For the meaning of 'dwelling' see para 232 ante.

8 Local Government Finance Act 1992 s 24(3). The text refers to a valuation carried out in accordance with s 21(2) (as amended) (see para 268 ante): s 24(3). See note 2 supra.

9 As to valuation bands see para 244 ante.

10 Local Government Finance Act 1992 s 24(4).

11 'Material increase', in relation to the value of a dwelling, means any increase which is caused (in whole or in part) by any building, engineering or other operation carried out in relation to the dwelling, whether or not constituting development for which planning permission is required: ibid s 24(10).

12 'Relevant transaction' means a transfer on sale of the fee simple, a grant of a lease for a term of seven years or more or a transfer on sale of such a lease: ibid s 24(10).

13 Ibid s 24(4)(a)(i). See note 2 supra.

14 'Material reduction', in relation to the value of a dwelling, means any reduction which is caused (in whole or in part) by the demolition of any part of the dwelling, any change in the physical state of the dwelling's locality or any adaptation of the dwelling to make it suitable for use by a physically disabled person: ibid s 24(10). For these purposes, it has been held that an increase in noise and fumes caused by an intensification in the use of a nearby road is capable of being a 'change in the physical state of the dwelling's locality' and thus could properly be the basis for a change in council tax banding: see *Charlton-Merryweather (Listing Officer) v Hunt* [2007] EWHC 3190 (Admin), [2007] All ER (D) 265 (Dec) (the general approach where the word 'physical' was used was that it should mean something that had an effect on the senses of an individual, unless there was a need to limit it).

15 Local Government Finance Act 1992 s 24(4)(a)(ii). See note 2 supra.

16 Ibid s 24(4)(a)(iii). The text refers to a dwelling that has become or ceased to be a composite hereditament for the purposes of the Local Government Finance Act 1988 Pt III (ss 41–67) (as amended) (non-domestic rating) (see para 7 et seq ante): see the Local Government Finance Act 1992 s 24(4)(a)(iii). See note 2 supra.

17 Ibid s 24(4)(a)(iv). See note 2 supra. 'Domestic use', in relation to a dwelling, means use in such a manner as to constitute it domestic property for the purposes of the Local Government Finance Act 1988 Pt III (as amended): Local Government Finance Act 1992 s 24(10). For the meaning of 'domestic property' in relation to non-domestic rating see para 120 ante.
18 Ibid s 24(4)(a). See note 2 supra.
19 Ibid s 24(4)(b)(i). See note 2 supra.
20 Ibid s 24(4)(b)(ii). See note 2 supra.
21 As to orders so made by a valuation tribunal or the High Court requiring a list to be altered see para 274 post. Valuation and community charge tribunals established under the Local Government Finance Act 1988 s 136, Sch 11 (as amended) are to be known as valuation tribunals: Local Government Finance Act 1992 s 15(1). As to valuation tribunals generally see para 147 et seq ante; and in relation to council tax see para 351 et seq post.
22 Ibid s 24(4)(c). See note 2 supra.
23 Ibid s 24(5)(a). See note 2 supra.
24 Ibid s 24(5)(b). See note 2 supra.
25 Ibid s 24(5)(c). See note 2 supra.
26 Ibid s 24(5)(d). See note 2 supra.
27 Ibid s 24(5)(e). See note 2 supra.
28 Ibid s 24(5)(f). See note 2 supra.
29 Ibid s 24(6). See note 2 supra.
30 Ibid s 24(7)(a). See note 2 supra.
31 Ibid s 24(7)(b). See note 2 supra.
32 Ibid s 24(7)(c). See note 2 supra.
33 Ibid s 24(7)(d). See note 2 supra.
34 Ibid s 24(8)(a). See note 2 supra.
35 Ibid s 24(8)(b). See note 2 supra.
36 Ibid s 24(9)(a). See note 2 supra.
37 Ibid s 24(9)(b) (amended by the Local Government (Wales) Act 1994 s 66(6), Sch 16 para 96; and the Local Government Act 2003 s 127(1), Sch 7 paras 40, 46). The text refers to a list that has been deposited by the authority under the Local Government Finance Act 1992 s 22(8) (see para 269 ante) or s 22A(10) (as added) (see para 270 ante) or s 22B(10) (as added) (see para 271 ante): see s 24(9)(b) (as so amended). See note 2 supra.
38 Ibid s 24(9). See note 2 supra.

274. Regulations made about the alteration of lists and related appeals. Regulations that have been made[1] about the alteration by listing officers[2] of valuation lists[3] make provision as to:

(1) restrictions on the alteration of valuation bands[4];
(2) the circumstances and periods in which proposals to alter lists may be made[5];
(3) the manner of making such proposals and the information to be included in such proposals[6];
(4) the acknowledgement of proposals by the listing officer[7];
(5) the procedure by which proposals may be treated as invalid[8];
(6) the service of copies of a valid proposal[9];
(7) the procedure that applies where the listing officer is of the opinion that a proposal is well-founded and he agrees to alter the list accordingly[10];
(8) the procedure that applies where a proposer wishes to withdraw a proposal[11];
(9) the procedure that applies where, following the making of a proposal, certain persons all agree on an alteration of the list in terms other than those contained in the proposal[12];
(10) the procedure that applies where the listing officer is of the opinion that a proposal is not well-founded, and the proposal is not withdrawn under head (8) above, and there is no agreement as provided in head (9) above[13];
(11) the day from which an alteration has effect[14];
(12) the notifications required where a list has been altered[15].

A disagreement under head (10) above must, no later than the expiry of the period of six months beginning on the day on which the proposal was served on him, be referred

by the listing officer to the relevant valuation tribunal[16], as an appeal by the proposer against the listing officer's refusal to alter the list[17].

An appeal lies to the High Court on a question of law arising out of a decision or order which is given or made by a relevant valuation tribunal under the regulations; and the High Court may confirm, vary, set aside, revoke or remit the decision or order of the tribunal, and may make any order the tribunal could have made[18].

1 le under the Local Government Finance Act 1992 s 24 (as amended): see para 273 ante. As to the making of regulations under the Local Government Finance Act 1992 generally see para 228 ante; and as to the regulations so made under s 24 (as amended) see the Council Tax (Alteration of Lists and Appeals) Regulations 1993, SI 1993/290 (amended by SI 1994/1746; SI 1995/363; and in relation to Wales only by SI 1996/619; SI 2001/1439; SI 2005/181; in relation to England only by SI 2000/409; SI 2006/3395); and the text and notes 3–18 infra.

2 As to listing officers see para 230 ante.

3 In relation to England, 'list' for these purposes means a valuation list compiled under the Local Government Finance Act 1992 s 22 (as amended) (see para 269 ante) or s 22A (as added) (see para 270 ante): Council Tax (Alteration of Lists and Appeals) Regulations 1993, SI 1993/290, reg 2(1) (amended by SI 1996/619). In relation to Wales, 'list' means, other than in the Council Tax (Alteration of Lists and Appeals) Regulations 1993, SI 1993/290, reg 5(1A) (as added in relation to Wales only), reg 5(3) (as amended in relation to Wales only) and reg 5(3A) (as added in relation to Wales only), a valuation list compiled under the Local Government Finance Act 1992 s 22 (as amended) or s 22A (as added) or s 22B (as added and amended) (see para 271 ante): Council Tax (Alteration of Lists and Appeals) Regulations 1993, SI 1993/290, reg 2(1) (definition substituted in relation to Wales by SI 2005/181). For the meanings of 'England' and 'Wales' see para 1 note 2 ante.

4 See the Council Tax (Alteration of Lists and Appeals) Regulations 1993, SI 1993/290, reg 4 (amended by SI 1994/1746). See also *Tilly v Listing Officer for Tower Hamlets London Borough Council* [2001] RVR 250. As to valuation bands see para 244 ante.

5 See the Council Tax (Alteration of Lists and Appeals) Regulations 1993, SI 1993/290, reg 5 (amended in relation to Wales by SI 2005/181). Any valuation of a dwelling carried out in connection with a proposal for the alteration of a list must be carried out in accordance with the Local Government Finance Act 1992 s 21(2) (as amended) (see para 268 ante): see the Council Tax (Alteration of Lists and Appeals) Regulations 1993, SI 1993/290, reg 36. There is no jurisdiction to entertain an appeal out of time: *Scrivner v Wojcik* [2001] RVR 248.

6 See the Council Tax (Alteration of Lists and Appeals) Regulations 1993, SI 1993/290, reg 6.

7 See ibid reg 7.

8 See ibid reg 8.

9 See ibid reg 9. As to service generally see reg 35.

10 See ibid reg 10. Before altering any entry in a list, the listing officer must ensure that a record (which need not be in documentary form) is made of the entry: see reg 38(1). A record made under reg 38(1) must be retained until the expiry of six years beginning on the day on which it was made: reg 38(2).

11 See ibid reg 11.

12 See ibid reg 12.

13 See ibid reg 13.

14 See ibid reg 14 (amended by SI 1994/1746; and in relation to England by SI 2006/3395). See also *Simmonds v Dowty* (26 February 1996) Lexis.

15 See the Council Tax (Alteration of Lists and Appeals) Regulations 1993, SI 1993/290, reg 15 (amended by SI 1996/619; and in relation to Wales by SI 2005/181).

16 'Relevant valuation tribunal', in relation to a proposal, means the valuation tribunal established by regulations under the Local Government Finance Act 1988 s 136, Sch 11 (as amended) for the area in which is situated the dwelling to which the proposal relates: Council Tax (Alteration of Lists and Appeals) Regulations 1993, SI 1993/290, reg 3. As to valuation tribunals generally see para 147 et seq ante; and in relation to council tax see para 351 et seq post.

17 See ibid reg 13. As to the procedure that applies on such an appeal see regs 16–31, 34, Schedule (reg 17 amended by SI 1995/363; in relation to England only by SI 2000/409; and in relation to Wales only by SI 2001/1439). No rule of confidentiality applicable to the Commissioners of Inland Revenue prevents the disclosure for the purposes of an appeal under the Council Tax (Alteration of Lists and Appeals) Regulations 1993, SI 1993/290 (as amended) of particulars delivered documents: see reg 37. For the meaning of 'particulars delivered document' see para 268 note 8 ante; definition applied by reg 16(1). As to the Commissioners for Revenue and Customs see CUSTOMS AND EXCISE vol 12(3) (2007 Reissue) para 900 et seq.

Where at any time before the beginning of a hearing (or the consideration by a tribunal of written representations) it is so agreed in writing between the persons who (if a dispute were to be the subject of an appeal to the tribunal) would be the parties to the appeal, the question may be referred to arbitration: see reg 33.

18 See ibid reg 32. See e g *Cselko v Listing Officer for Camden* [2001] RVR 280 (tribunal might have reached a different conclusion because its global valuation of the flats failed to have regard to the special circumstances of the appeal property).

275. Powers of entry. If a valuation officer[1] needs to value a dwelling[2] for the purpose of carrying out any of his functions, he and any servant of the Crown authorised by him in writing may enter on, survey and value the dwelling, so long as[3]:

(1) at least three clear days' notice in writing of the proposed exercise of the power is given[4]; and

(2) in a case where a person authorised by a valuation officer proposes to exercise the power, that person (if required) produces his authority[5].

If a person intentionally delays or obstructs a person in the exercise of such power of entry, he is liable on summary conviction to a fine not exceeding level 2 on the standard scale[6].

1 'Valuation officer' means any listing officer and any other officer of the Commissioners for Revenue and Customs who is for the time being appointed by them to carry out any of their functions: Local Government Finance Act 1992 s 26(5). As to listing officers, their functions, and the functions of the Commissioners see para 230 ante. As to the Commissioners for Revenue and Customs generally see CUSTOMS AND EXCISE vol 12(3) (2007 Reissue) para 900 et seq.

2 For the meaning of 'dwelling' see para 232 ante.

3 Local Government Finance Act 1992 s 26(1).

4 See ibid s 26(2). There must be disregarded for this purpose any day which is a Saturday, a Sunday, Christmas Day or Good Friday (s 26(2)(a)), or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 (see TIME vol 45(2) (Reissue) para 220) in England and Wales (Local Government Finance Act 1992 s 26(2)(b)). For the meanings of 'England' and 'Wales' see para 1 note 2 ante. Cf the powers of a valuation officer for non-domestic rating purposes: see para 6 ante.

5 See ibid s 26(3).

6 Ibid s 26(4). As to the standard scale see para 70 note 11 ante.

276. Information about properties. In any case where:

(1) a notice is served by a listing officer[1] or the Commissioners for Revenue and Customs[2] on a charging or billing authority[3], a community charges registration officer[4] or any other person prescribed for these purposes[5];

(2) the notice requests the supply of information[6] of a description specified in the notice[7]; and

(3) the information relates to property and is information which the listing officer or the Commissioners reasonably believe will assist him or them in carrying out any of his or their functions[8],

the authority, officer or other person must supply the information requested, and must do so in such form and manner and at such time as the listing officer or the Commissioners specify in the notice[9].

For the purpose of carrying out any of his functions, a valuation officer[10] may serve on a person who is or has been an owner[11] or occupier of any dwelling[12] a notice:

(a) requesting him to supply to the officer information which is of a description specified in the notice[13]; and

(b) stating that the officer believes the information requested will assist him in carrying out his functions[14].

A person on whom such a notice is served must supply the information requested if it is in his possession or control, and must do so in such form and manner as is specified in the notice and within the period of 21 days beginning with the day on which the notice is served[15]. If a person on whom such a notice has been served fails without reasonable

excuse to comply with this provision, he is liable on summary conviction to a fine not exceeding level 2 on the standard scale[16]. If a person[17], in supplying information in purported compliance with a request for information from a valuation officer, either makes a statement which he knows to be false in a material particular[18] or recklessly makes a statement which is false in a material particular[19], he is liable on summary conviction to imprisonment for a term not exceeding three months or a fine not exceeding level 3 on the standard scale or both[20].

If in the course of the exercise of its functions any information comes to the notice of a charging or billing authority which it considers would assist a listing officer in carrying out any of his functions, it is the authority's duty to inform the listing officer[21].

In carrying out any of his or their functions, a listing officer or the Commissioners for Revenue and Customs may also take into account any other information available to him or them, whatever its source and whether or not obtained under a provision contained in or made under the Local Government Finance Act 1992 or any other Act[22].

1 As to listing officers see para 230 ante.
2 As to the Commissioners for Revenue and Customs generally see CUSTOMS AND EXCISE vol 12(3) (2007 Reissue) para 900 et seq.
3 For these purposes, 'charging authority' is to be construed in accordance with the Local Government Finance Act 1988 s 144(1) (see para 95 note 15 ante): Local Government Finance Act 1992 s 27(8). As to billing authorities see para 229 ante.
4 'Community charges registration officer' is to be construed in accordance with the Local Government Finance Act 1988 s 26 (repealed with savings): Local Government Finance Act 1992 s 27(8). With effect from 1 April 1993, the community charge was abolished and replaced with the council tax: see para 227 ante.
5 Ibid s 27(1)(a). 'Prescribed' means prescribed by regulations made by the Secretary of State (or by the Welsh Ministers, as the case may be): s 116(1). As to the Secretary of State and the Welsh Ministers, and as to the making of regulations under the Local Government Finance Act 1992 generally, see para 228 ante. At the date at which this volume states the law, no such regulations had been made.
6 As to the meaning of 'information' see para 228 note 23 ante.
7 Local Government Finance Act 1992 s 27(1)(b).
8 Ibid s 27(1)(c). As to the functions of a listing officer and the Commissioners see para 230 ante.
9 Ibid s 27(1).
10 For the meaning of 'valuation officer' see para 275 note 1 ante.
11 For the meaning of 'owner' see para 237 note 13 ante.
12 For the meaning of 'dwelling' see para 232 ante.
13 Local Government Finance Act 1992 s 27(2)(a).
14 Ibid s 27(2)(b).
15 Ibid s 27(3).
16 Ibid s 27(4). As to the standard scale see para 70 note 11 ante.
17 Ie a person on whom a notice has been served under ibid s 27(2) (see the text and notes 10–14 supra): see s 27(5) (prospectively amended: see note 20 infra).
18 Ibid s 27(5)(a). As to knowledge in these circumstances see para 141 note 30 ante.
19 Ibid s 27(5)(b). As to recklessness in criminal law see CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(1) (2006 Reissue) para 11.
20 Ibid s 27(5).
As from a day to be appointed under the Criminal Justice Act 2003 s 336(3), the reference to 'imprisonment for a term not exceeding three months' (and the corresponding reference to 'or both') in the Local Government Finance Act 1992 s 27(5) is repealed by the Criminal Justice Act 2003 s 332, Sch 37 Pt 9. However, at the date at which this volume states the law, no such day had been appointed.
21 Local Government Finance Act 1992 s 27(6).
22 Ibid s 27(7).

277. Information about valuation lists. A person may require a listing officer[1] to give him access to such information[2] as will enable him to establish what is the state of a valuation list[3] (or has been its state at any time since it came into force)[4] if:

(1) the officer is maintaining the list[5]; and

(2) the list is in force or has been in force at any time in the preceding five years[6].

A person may require a billing authority[7] to give him access to such information as will enable him to establish what is the state of a copy of a list (or has been its state at any time since it was deposited)[8] if:

(a) the authority has deposited such a copy[9]; and

(b) the list is in force or has been in force at any time in the preceding five years[10].

A person may require a billing authority to give him access to such information as will enable him to establish what is the state of a copy of a proposed list[11] if:

(i) the authority has deposited such a copy[12]; and

(ii) the list itself is not yet in force[13].

Any such requirement for access to information[14] must be complied with at a reasonable time and place and without payment being sought; but the information may be in documentary or other form, as the person or authority of whom the requirement is made thinks fit[15]. Where access is so given to information in documentary form, the person to whom access is given may make copies of (or of extracts from) the document[16]; and may require a person having custody of the document to supply to him a photographic copy of (or of extracts from) the document[17]. Where access is so given to information in a form which is not documentary, the person to whom access is given may make transcripts of (or of extracts from) the information[18]; and may require a person having control of access to the information to supply to him a copy in documentary form of (or of extracts from) the information[19]. If a reasonable charge is required for the copying or transcribing of (or extracting from) documents[20], the facility may not be made available to a person[21] unless the person seeking to avail himself of the facility pays the charge[22].

If without reasonable excuse a person having custody of a document containing (or having control of access to) information access to which is sought[23]:

(A) intentionally obstructs a person in exercising any right of access to (or of copying, transcribing or extracting from) any such document[24]; or

(B) refuses to comply with a requirement to supply a copy of the information (or of extracts from the information) in photographic or documentary form[25],

he is liable on summary conviction to a fine not exceeding level 2 on the standard scale[26].

1 As to listing officers see para 230 ante.
2 As to the meaning of 'information' see para 228 note 23 ante.
3 Ie a list which has been compiled under the Local Government Finance Act 1992 Pt I Ch II (ss 20–29) (as amended) (see paras 230, 268 et seq ante, 278 et seq post).
4 Ibid s 28(1).
5 Ibid s 28(1)(a).
6 Ibid s 28(1)(b).
7 As to billing authorities see para 229 ante.
8 Local Government Finance Act 1992 s 28(2).
9 Ibid s 28(2)(a) (amended by the Local Government (Wales) Act 1994 s 66(6), Sch 16 para 97; and the Local Government Act 2003 s 127(1), Sch 7 paras 40, 48). The text refers to a copy deposited under the Local Government Finance Act 1992 s 22(8) (see para 269 ante) or s 22A(10) (as added) (see para 270 ante) or s 22B(10) (as added) (see para 271 ante): see s 28(2)(a) (as so amended).
10 Ibid s 28(2)(b).
11 Ibid s 28(3).
12 Ibid s 28(3)(a) (amended by the Local Government Act 2003 Sch 7 paras 40, 48). The text refers to a copy deposited under the Local Government Finance Act 1992 s 22(6) (see para 269 ante) or s 22B(8) (as added) (see para 271 ante): see s 28(3)(a) (as so amended).
13 Ibid s 28(3)(b).
14 Ie under ibid s 28(1), (2) or (3) (as amended) (see the text and notes 1–13 supra): see s 28(4).
15 Ibid s 28(4).
16 Ibid s 28(5)(a).
17 Ibid s 28(5)(b).

18 Ibid s 28(6)(a).
19 Ibid s 28(6)(b).
20 Ie if a reasonable charge is required for a facility under ibid s 28(5) (see the text and notes 16–17 supra) or s 28(6) (see the text and notes 18–19 supra): see s 28(7).
21 Ie ibid s 28(5) (see the text and notes 16–17 supra) or s 28(6) (see the text and notes 18–19 supra), as the case may be, does not apply: see s 28(7).
22 Ibid s 28(7).
23 Ibid s 28(8). The text refers to access which is sought under s 28 (as amended) (see the text and notes 1–22 supra): see s 28(8).
24 Ibid s 28(8)(a). The text refers to a right under s 28(1), (2), (3) (see the text and notes 1–13 supra), s 28(5)(a) (see the text and note 16 supra) or s 28(6)(a) (see the text and note 18 supra): see s 28(8)(a).
25 Ibid s 28(8)(b). The text refers to a right under s 28(5)(b) (see the text and note 17 supra) or s 28(6)(b) (see the text and note 19 supra): see s 28(8)(b).
26 Ibid s 28(8). As to the standard scale see para 70 note 11 ante.

278. Information about proposals and appeals. A person may, at a reasonable time and without making payment, inspect any proposal of alteration made or notice of appeal given[1], if made or given as regards a valuation list[2] which is in force when inspection is sought (or which has been in force at any time in the preceding five years)[3].

A person may:

(1) make copies of (or of extracts from) such a document[4]; or
(2) require a person having custody of such a document to supply to him a photographic copy of (or of extracts from) the document[5].

If a reasonable charge is required for a facility under head (1) or head (2) above, the facility may not be made available unless the person seeking to avail himself of the facility pays the charge[6].

If without reasonable excuse a person having custody of such a document[7]:

(a) intentionally obstructs a person in exercising either a right of inspection[8] or a right under head (1) above[9]; or
(b) refuses to supply a copy to a person entitled to it under head (2) above[10],

he is liable on summary conviction to a fine not exceeding level 2 on the standard scale[11].

1 Ie made or given under regulations made under the Local Government Finance Act 1992 s 24 (as amended) (see paras 273–274 ante): see s 29(1).
2 Ie a list which has been compiled under ibid Pt I Ch II (ss 20–29) (as amended) (see para 230 et seq ante).
3 Ibid s 29(1).
4 Ibid s 29(2)(a). The text refers to a document mentioned in s 29(1) (see the text and notes 1–3 supra): see s 29(2)(a).
5 Ibid s 29(2)(b).
6 Ibid s 29(3).
7 Ibid s 29(4). The text refers to a document mentioned in s 29(1) (see the text and notes 1–3 supra): see s 29(4).
8 Ie a right under ibid s 29(1) (see the text and notes 1–3 supra): see s 29(4)(a).
9 Ibid s 29(4)(a).
10 Ibid s 29(4)(b).
11 Ibid s 29(4). As to the standard scale see para 70 note 11 ante.

(5) ADMINISTRATION OF COUNCIL TAX

(i) In general

279. Power to make regulations for administration of council tax. The Secretary of State (or the Welsh Ministers, as the case may be)[1] may make regulations[2] containing such provision as he thinks fit in relation to[3]:

(1) the collection of amounts persons are liable to pay in respect of council tax[4]; and

(2) other aspects of administration as regards council tax[5].

Regulations relating to the collection of council tax may include provision for making payments on account[6], for the supply of information to authorities[7] and for the service of notice[8]. Regulations may also include provision relating to payment by instalment[9], payment by persons who are jointly and severally liable[10], discounts[11], reductions for lump sum payment[12], exempt dwellings[13], supply of information by other authorities and certain officers[14], and the use of information by authorities[15].

1 As to the Secretary of State and the Welsh Ministers see para 228 ante.

2 As to the making of regulations under the Local Government Finance Act 1992 generally see para 228 ante. In exercise of the power so conferred, the following regulations have been made under s 14(1), Sch 2 para 1 (as amended): see the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613 (amended by the Statute Law (Repeals) Act 1995 s 1(1), Sch 1 Pt VI; SI 1992/1741; SI 1992/3008; SI 1993/196; SI 1993/773; SI 1994/505; SI 1995/22; SI 1996/675; SI 1996/1880; SI 1996/2405; SI 1997/393; SI 1998/295; SI 1999/534; SI 2000/2026; and in relation to England by SI 2001/362; SI 2001/2237; SI 2003/768; SI 2003/2211; SI 2003/2604; SI 2004/927; SI 2005/617; SI 2005/2866; SI 2006/237; SI 2006/3395; SI 2007/501; in relation to Wales by SI 2001/1076; SI 2002/808; SI 2003/522; SI 2003/1715; SI 2004/785; SI 2004/1013; SI 2005/3302; SI 2007/582); the Council Tax (Administration and Enforcement) (Attachment of Earnings Order) (Wales) Regulations 1992, SI 1992/1741 (amended by SI 1996/1880); the Council Tax (Demand Notices) (Wales) Regulations 1993, SI 1993/255 (amended by SI 1995/160; SI 1996/310; SI 1996/1880; SI 1997/357; SI 1998/267; SI 1999/348; SI 2000/501; SI 2004/460; SI 2004/3143; SI 2006/217); and the Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003, SI 2003/2613 (amended by SI 2003/3081; SI 2004/3389; SI 2006/217; SI 2006/492, and in relation to England by SI 2006/3395); and see para 280 et seq post.

3 Local Government Finance Act 1992 Sch 2 para 1(1).

4 Ibid Sch 2 para 1(1)(a). As to council tax generally see para 227 et seq ante; and as to liability to council tax see para 231 et seq ante.

5 Ibid Sch 2 para 1(1)(b).

6 See ibid Sch 2 paras 2(1), (2), 20(a); and para 296 post.

7 See ibid Sch 2 paras 2(3), 20(b); and para 281 et seq post. Any reference in Sch 2 (as amended) to an authority is a reference to a billing authority: see Sch 2 para 1(2) (amended by the Local Government etc (Scotland) Act 1994 s 180(1), Sch 13 para 176(16)). As to billing authorities see para 229 ante.

8 See the Local Government Finance Act 1992 Sch 2 para 2(4); and paras 280, 292 et seq post.

9 See ibid Sch 2 para 2(5); and para 300 et seq post.

10 See ibid Sch 2 para 3; and para 288 post.

11 See ibid Sch 2 paras 4, 5; and para 290 et seq post.

12 See ibid Sch 2 paras 6, 7; and para 305 post.

13 See ibid Sch 2 paras 8, 9, 10, 21 (Sch 2 para 8 amended by the Local Government etc (Scotland) Act 1994 s 180(2), Sch 14; and the Local Government Act 2003 s 127(1), Sch 7 paras 40, 53(1), (2); the Local Government Finance Act 1992 Sch 2 para 21 added by the Local Government Act 2003 Sch 7 paras 40, 53(1), (3)); and paras 258 ante, 285 et seq post.

14 See the Local Government Finance Act 1992 Sch 2 paras 11–17 (Sch 2 paras 12, 13 amended by the Local Government etc (Scotland) Act 1994 s 180(1), (2), Sch 13 para 176(16), Sch 14); and para 282 post.

15 See ibid Sch 2 paras 18, 18A (Sch 2 para 18A added by the Local Government Act 2003 s 85); and para 284 post.

280. Service of notices. Where any notice which is required or authorised by the council tax administration and enforcement regulations[1] to be given to or served on any person falls to be given or served by or on behalf of the Common Council of the City of London[2] it may be given or served in any manner in which it might be given or served under the Local Government Act 1972[3] if the Common Council were a local authority for those purposes[4].

If the name of any person on whom a notice is to be served (either for the purposes of obtaining information from residents, owners or managing agents of a dwelling[5] or for the purposes of obtaining information from such persons relating to exempt dwellings[6]) cannot after reasonable inquiry be ascertained, the notice may be served by

addressing it to 'The Resident'[7] or, as the case may be, 'The Owner'[8] or 'The Managing Agent'[9] of the dwelling concerned (naming the dwelling) without further name or description[10].

If the name of any person to whom a notice is to be given or on whom a notice is to be served in accordance with any of the billing provisions[11] cannot after reasonable inquiry be ascertained, the notice may be given or served by addressing it to 'The Council Tax Payer' of the dwelling concerned (naming the dwelling) without further name or description[12].

In relation to England only[13], any notice which is required or authorised to be given to (or served by) a billing authority on any person in connection with obtaining information (including with regard to exempt dwellings) or for billing purposes[14], or any information which is required by the demand notice regulations[15] to be supplied to any person when a demand notice[16] is served[17]:

(1) may be so given, served or supplied by sending the notice or information to that person by electronic communication[18] to such address[19] as may be notified by that person for that purpose[20]; or

(2) is to be treated as given, served or supplied to that person where[21]:
   (a) the billing authority and that person have agreed for that purpose that any documents containing the notice or information may be accessed by that person on a website[22];
   (b) the document is a document to which that agreement applies[23];
   (c) the billing authority has published the document on a website[24]; and
   (d) that person is notified, in a manner for the time being agreed for those purposes between him and the billing authority, of the publication of the document on a website[25], of the address of that website[26] and of the place on the website where the document may be accessed[27].

For the purpose of any legal proceedings in England, a notice given by a means described in head (1) and heads (2)(a) to (2)(d) above must, unless the contrary is proved, be treated as served on the second business day[28] after it was sent in accordance with head (1) above[29] or on the second business day after notification of its publication was given in accordance with head (2)(d) above[30].

1 Ie the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613 (as amended): see reg 2(1).

2 As to what constitutes the Common Council of the City of London for these purposes see para 229 note 4 ante.

3 Ie under the Local Government Act 1972 s 233 (as amended) (service of notices to local authorities) (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 443): see the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 2(1).

4 Ibid reg 2(1). The text refers to a notice given or served if the Common Council were a local authority within the meaning of the Local Government Act 1972 s 233 (as amended) (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 443): see the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 2(1).

5 Ie in accordance with ibid reg 3 (as amended) (information from residents etc) (see para 281 post): see reg 2(2) (as amended: see note 10 infra). For the meaning of 'managing agent' see note 9 infra; for the meaning of 'owner' see note 8 infra; and for the meaning of 'resident' see note 7 infra.

6 Ie in accordance with ibid reg 12 (information relating to exempt dwellings etc) (see para 289 post): see reg 2(2) (as amended: see note 10 infra). For these purposes, 'exempt dwelling' means a dwelling which is exempt from council tax under the Council Tax (Exempt Dwellings) Order 1992, SI 1992/558 (as amended) (see para 235 ante) or a dwelling which falls into a class for which the billing authority has determined under the Local Government Finance Act 1992 s 13A(3) (as added) (see para 258 ante) that the amount of council tax payable is to be reduced to nil: see the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 1(2) (definition added in relation to Wales by SI 2004/785; in relation to England by SI 2004/927). For the meaning of 'dwelling' under the Local

Government Finance Act 1992 see para 232 ante. As to council tax generally see para 227 et seq ante; and as to liability to council tax see para 231 et seq ante. As to billing authorities see para 229 ante; and as to exempt dwellings see paras 234–235 ante.

7 For the meaning of 'resident' under the Local Government Finance Act 1992 see para 237 note 4 ante.

8 For the meaning of 'owner' under the Local Government Finance Act 1992 see para 237 note 13 ante.

9 'Managing agent', in relation to a dwelling, means any person authorised to arrange lettings of the dwelling: Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 1(2) (definition substituted by SI 1992/3008).

10 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 2(2) (amended by SI 1992/3008).

11 Ie in accordance with any provision of the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, Pt V (regs 17–31) (as amended) (see para 292 et seq post): see reg 2(3).

12 Ibid reg 2(3).

13 For the meaning of 'England' see para 1 note 2 ante.

14 Ie a notice required or authorised as mentioned in the text by a provision of the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, Pt II (regs 3–6) (as amended) (information) (see para 281 et seq post), Pt III (regs 7–12) (as amended) (exempt dwellings) (see para 285 et seq post) or Pt V (as amended) (billing) (see para 292 et seq post): see reg 2(4) (as added: see note 17 infra).

15 For these purposes, 'demand notice regulations' means regulations under the Local Government Finance Act 1992 s 14(1), Sch 2 para 1 (as amended) (see para 279 ante) making provision either that a notice must contain prescribed matters (see Sch 2 para 2(4)(e)) or that the authority must supply prescribed information to the liable person when it serves a notice (see Sch 2 para 2(4)(j)): Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 1(2) (definition substituted by SI 1992/3008; amended in relation to England by SI 2003/2604). As to the demand notice regulations so specified see the Council Tax (Demand Notices) (Wales) Regulations 1993, SI 1993/255 (as amended); the Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003, SI 2003/2613 (as amended); and para 279 note 2 ante.

16 Ie within the meaning of the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, Pt V (as amended) (see para 292 et seq post): see reg 2(4) (as added: see note 17 infra).

17 Ibid reg 2(4) (reg 2(4)–(8) added in relation to England by SI 2003/2604). The provision set out in the text is expressed to be without prejudice to the Local Government Act 1972 s 233 (as amended) (service of notices to local authorities) (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 443) and the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 2(1)–(3) (as amended) (see the text and notes 1–12 supra) and is subject to reg 2(5)–(8) (as added) (see the text and notes 20, 22, 28–30 infra): see reg 2(4) (as so added).

18 For these purposes, 'electronic communication' means a communication transmitted (whether from one person to another, from one device to another or from a person to a device or vice versa) by means of an electronic communications network within the meaning of the Communications Act 2003 s 32(1) (see TELECOMMUNICATIONS AND BROADCASTING vol 45(1) (2005 Reissue) para 64), or by other means but while in electronic form: Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 1(2) (definition added in relation to England by SI 2003/2604; and substituted in relation to England by SI 2006/237).

19 For these purposes, 'address', in relation to electronic communications, includes any number or address used for the purposes of such communications: Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 1(2) (definition added in relation to England by SI 2003/2604).

20 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 2(4)(a) (as added: see note 17 supra). A person who has notified an address for the purpose of reg 2(4)(a) (as added) must, by notice in writing to the billing authority, advise the billing authority of any change in that address; and the change takes effect on the third business day (as to the meaning of which see note 28 infra) after the date on which the notice is received by the billing authority: reg 2(6) (as so added). A person who has notified an address for the purpose of reg 2(4)(a) (as added) also may, by notice in writing to the billing authority, withdraw that notification; and the withdrawal takes effect on the third business day after the date on which the notice is received by the billing authority: reg 2(7) (as so added).

21 Ibid reg 2(4)(b) (as added: see note 17 supra).

22 Ibid reg 2(4)(b)(i) (as added: see note 17 supra). A person who has entered into an agreement with the billing authority under reg 2(4)(b)(i) (as added) may, by notice in writing to the billing authority, inform the authority that he no longer wishes to be a party to the agreement; and where such notice is given, the agreement is to be treated as revoked on the third business day (as to the meaning of which see note 28 infra) after the date on which the notice is received by the billing authority: reg 2(8) (as so added).

23 Ibid reg 2(4)(b)(ii) (as added: see note 17 supra).

24 Ibid reg 2(4)(b)(iii) (as added: see note 17 supra).

25 Ibid reg 2(4)(b)(iv)(aa) (as added: see note 17 supra).

26 Ibid reg 2(4)(b)(iv)(bb) (as added: see note 17 supra).
27 Ibid reg 2(4)(b)(iv)(cc) (as added: see note 17 supra).
28 For these purposes, 'business day' means any day except a Saturday or Sunday, Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 (see TIME vol 45(2) (Reissue) para 220) in England and Wales: Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 1(2) (definition added in relation to England by SI 2003/2604). For the meaning of 'Wales' see para 1 note 2 ante.
29 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 2(5)(a) (as added: see note 17 supra).
30 Ibid reg 2(5)(b) (as added: see note 17 supra).

(ii) Information and Assumptions

281. Information from residents etc. A person who appears to a billing authority[1] to be a resident[2], owner[3] or managing agent[4] of a particular dwelling[5] must supply to the authority such information as fulfils the following conditions[6], namely:

(1) it is in the possession or control of the person concerned[7];
(2) the authority requests (by notice given in writing) the person concerned to supply it[8]; and
(3) it is requested by the authority for the purposes of identifying the person who, in respect of any period specified in the notice, is the liable person[9] in relation to the dwelling[10].

A person on whom such a notice is served must supply the information so requested within the period of 21 days beginning on the day on which the notice was served[11] and, if the authority so requires, in the form specified in the request[12].

1 As to billing authorities see para 229 ante.
2 For the meaning of 'resident' under the Local Government Finance Act 1992 see para 237 note 4 ante.
3 For the meaning of 'owner' under the Local Government Finance Act 1992 see para 237 note 13 ante.
4 For the meaning of 'managing agent' see para 280 note 9 ante.
5 For the meaning of 'dwelling' see para 232 ante.
6 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 3(1).
7 Ibid reg 3(1)(a).
8 Ibid reg 3(1)(b). As to the service of notices see para 280 ante.
9 The reference to the liable person is a reference to a person who is liable (whether solely or jointly and severally) to pay to a billing authority, in respect of a particular dwelling, an amount in respect of council tax; and includes a reference to a person who in the opinion of the authority will be so liable: ibid reg 3(3) (substituted by SI 1992/3008). As to references under the Local Government Finance Act 1992 to an amount payable in respect of council tax see para 244 note 3 ante; and as to council tax see para 227 et seq ante.
10 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 3(1)(c).
11 Ibid reg 3(2)(a).
12 Ibid reg 3(2)(b).

282. Information from public bodies. A billing authority[1] may, for the purpose of carrying out its functions under Part I of the Local Government Finance Act 1992[2], request (by notice given in writing)[3] any other billing authority[4], any precepting authority[5], any levying authority[6] and the electoral registration officer for any area in Great Britain[7] to supply to it such information as is specified in the notice which does not fall within any of the following categories[8], namely that which is not:

(1) information obtained by the person concerned or by a committee, any executive[9], a committee of any executive or a member of any executive, of such a person[10]: (a) in its capacity as police authority[11]; or (b) in its capacity as a constituent council of such an authority[12];
(2) information obtained by the person concerned in its capacity as an employer[13]; or
(3) information consisting of anything other than the name, address and any past or

present place of residence of any person and the dates during which he is known or thought to have resided at that place[14].

A billing authority may also, for the purpose of carrying out its functions under Part I of the Local Government Finance Act 1992, request (by notice given in writing)[15] community charges registration officers[16] to supply to it such information as is specified in the notice which does not consist of anything other than[17]:

(i) the name, address and any past or present place of residence of any person and the dates during which he is known or thought to have resided at that place[18];
(ii) information relevant to the status of any person as an exempt individual[19]; and
(iii) the days on which any person was an exempt individual[20].

Information requested by a billing authority from any of the specified authorities must be supplied by the person requested to supply it if it is in his possession or control, and it must be so supplied within 21 days of the day on which the request is made[21]. A billing authority may[22] supply relevant information[23] to another billing authority (or to a levying authority) even if it is not requested to supply the information[24].

1 As to billing authorities see para 229 ante.
2 Ie the Local Government Finance Act 1992 Pt I (ss 1–69) (as amended) (see para 231 et seq ante): see the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 4(1) (as substituted: see note 3 infra).
3 Ibid reg 4(1) (reg 4 substituted by SI 1992/3008). As to the service of notices see para 280 ante.
4 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 4(2)(a) (as substituted: see note 3 supra).
5 Ibid reg 4(2)(b) (as substituted: see note 3 supra). As to precepting authorities for these purposes see para 228 note 21 ante.
6 Ibid reg 4(2)(c) (as substituted: see note 3 supra). The reference in the text to 'levying authorities' applies to the administration of the council tax in Scotland, which may have an impact on the system in England, eg in relation to information confirming a person's sole or main residence (see para 237 ante).
7 Ibid reg 4(2)(d) (as substituted: see note 3 supra). For the meaning of 'Great Britain' see para 127 note 20 ante. As to electoral registration officers and their areas see ELECTIONS AND REFERENDUMS vol 15(3) (Reissue) para 154 et seq.
8 Ibid reg 4(1)(a) (as substituted: see note 3 supra).
9 Ie within the meaning of the Local Government Act 2000 Pt II (ss 10–48) (as amended) (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 207 et seq): see the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 4(3)(a) (as substituted and amended: see note 10 infra).
10 See ibid reg 4(3)(a) (as substituted (see note 3 supra); amended in relation to England by SI 2001/2237; in relation to Wales by SI 2002/808).
11 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 4(3)(a)(i) (as substituted: see note 3 supra). As to police authorities see POLICE vol 36(1) (2007 Reissue) para 139 et seq.
12 Ibid reg 4(3)(a)(ii) (as substituted: see note 3 supra).
13 See ibid reg 4(3)(b) (as substituted: see note 3 supra).
14 See ibid reg 4(3)(c) (as substituted: see note 3 supra).
15 Ibid reg 4(1) (as substituted: see note 3 supra).
16 Ibid reg 4(4) (as substituted: see note 3 supra). References to community charges registration officers are to be construed, in relation to such officers in England or Wales, in accordance with the Local Government Finance Act 1988 s 26 (repealed with savings): Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 4(9)(a) (as substituted: see note 3 supra). For the meanings of 'England' and 'Wales' see para 1 note 2 ante. With effect from 1 April 1993, the community charge was abolished and replaced with the council tax: see para 227 ante.
17 Ibid reg 4(1)(b) (as substituted: see note 3 supra).
18 Ibid reg 4(5)(a) (as substituted: see note 3 supra).
19 Ibid reg 4(5)(b) (as substituted: see note 3 supra). References to an exempt individual are to be construed, as regards any period during which the sole or main residence of the person concerned is or was in England or Wales, in accordance with the Local Government Finance Act 1988 s 2, Sch 1 (repealed with savings): Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 4(9)(b) (as substituted: see note 3 supra).
20 Ibid reg 4(5)(c) (as substituted: see note 3 supra).
21 Ibid reg 4(6) (as substituted: see note 3 supra).

22 Ie so far as it does not have the power to do so apart from under ibid Pt II (regs 3–6) (as amended) (see paras 281 ante, 283 et seq post): see reg 4(7) (as substituted: see note 3 supra).
23 Information is relevant information for the purposes of ibid reg 4(7) (as substituted) if:
(1) it was obtained by the billing authority in exercising its functions under the Local Government Finance Act 1992 Pt I (as amended) (see para 231 et seq ante) (Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 4(8)(a) (as substituted: see note 3 supra)); and
(2) it believes it would be useful to the other billing authority in exercising its functions under the Local Government Finance Act 1992 Pt I (as amended) (or, in the case of a levying authority, its functions under Pt II (ss 70–99) (as amended) (Scotland)) (Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 4(8)(b) (as so substituted)).
24 Ibid reg 4(7) (as substituted: see note 3 supra).

283. Information as to deaths. Within seven days of the registration of the death[1] of any person aged 18 or over, the registrar of births and deaths for the sub-district in which the death occurred must supply to any billing authority[2] whose area includes all or part of, or falls within, that sub-district, the following particulars of the death[3]:

(1) the name and surname of the deceased[4];
(2) the date of his death[5]; and
(3) his usual address[6].

The registrar must supply the particulars so specified either in writing or in a form in which they can be processed by a computer[7].

1 As to registration of death generally see REGISTRATION CONCERNING THE INDIVIDUAL vol 39(2) (Reissue) para 561 et seq.
2 As to billing authorities see para 229 ante.
3 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 5(1).
4 Ibid reg 5(1)(a).
5 Ibid reg 5(1)(b).
6 Ibid reg 5(1)(c).
7 Ibid reg 5(2).

284. Use of information by billing authority. Regulations under the Local Government Finance Act 1992[1] may include provision that, in carrying out its functions under Part I of that Act[2], an authority may use information[3] which is obtained under any other enactment[4] and which does not fall within any prescribed description of information which cannot be used[5]. Accordingly, in carrying out its functions under Part I of the Local Government Finance Act 1992[6], a billing authority[7] may use information obtained under any other enactment provided that it was not obtained by a committee of the authority in its capacity as a police authority[8].

A billing authority also may use information it has obtained for the purpose of carrying out its functions under Part I of the Local Government Finance Act 1992[9]:

(1) for the purpose of identifying vacant dwellings[10]; or
(2) for the purpose of taking steps to bring vacant dwellings back into use[11].

The power under head (1) or head (2) above, so far as relating to personal information[12], extends only to information which consists of an individual's name or an address or number for communicating with him[13].

1 Ie under the Local Government Finance Act 1992 s 14(1), Sch 2 (as amended) (see para 279 ante): see Sch 2 para 18. As to the making of regulations under the Local Government Finance Act 1992 generally see para 228 ante; and as to the regulations made under Sch 2 (as amended) see para 279 ante.
2 Ie under ibid Pt I (ss 1–69) (as amended) (see para 231 et seq ante): see Sch 2 para 18.
3 Ibid Sch 2 para 18. As to the meaning of 'information' see para 228 note 23 ante.
4 Ibid Sch 2 para 18(a).
5 Ibid Sch 2 para 18(b). 'Prescribed' means prescribed by regulations made by the Secretary of State (or by the Welsh Ministers, as the case may be): s 116(1). See note 1 supra. As to the Secretary of State and the Welsh Ministers see para 228 ante.
6 Ie under ibid Pt I (as amended) (see para 231 et seq ante): see the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 6(1)(a) (as amended: see note 8 infra).

7 As to billing authorities see para 229 ante.

8 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 6(1)(a) (amended by SI 1995/22). As to police authorities see POLICE vol 36(1) (2007 Reissue) para 139 et seq.

9 Local Government Finance Act 1992 Sch 2 para 18A(1) (Sch 2 para 18A added by the Local Government Act 2003 s 85). The text refers to functions under the Local Government Finance Act 1992 Pt I (as amended) (see para 231 et seq ante): see Sch 2 para 18A(1) (as so added).

10 Ibid Sch 2 para 18A(1)(a) (as added: see note 9 supra). 'Vacant dwelling' means a dwelling in which no one lives and which is substantially unfurnished: Sch 2 para 18A(3) (as so added). For the meaning of 'dwelling' see para 232 ante.

11 Ibid Sch 2 para 18A(1)(b) (as added: see note 9 supra).

12 'Personal information' means information which relates to an individual (living or dead) who can be identified, either from that information or from that information and other information of the authority, and includes any expression of opinion about the individual and any indication of the intentions of any person in respect of the individual: ibid Sch 2 para 18A(3) (as added: see note 9 supra).

13 Ibid Sch 2 para 18A(2) (as added: see note 9 supra).

285. Information for owners of exempt dwellings etc. A billing authority[1] which received a copy of a proposed first list[2] had to, as respects each dwelling[3] shown in the copy which in the opinion of the authority would be a relevant dwelling[4] on the day when the list came into force, notify the person concerned[5] of the valuation band shown in the copy as applicable to the dwelling[6]. Where:

(1) a dwelling is not shown in the copy of such a proposed list but is shown in the copy of the list that was compiled and sent to the authority[7]; and

(2) in the opinion of the authority the dwelling was a relevant dwelling on the day when the list came into force[8],

the authority must notify the person concerned of the valuation band shown in the list as applicable to the dwelling[9].

1 As to billing authorities see para 229 ante.

2 Ie sent to it under the Local Government Finance Act 1992 s 22(5)(b) (see para 269 ante): see the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 7(1) (as amended: see note 6 infra).

3 For the meaning of 'dwelling' see para 232 ante.

4 For these purposes, a dwelling is a relevant dwelling on any day if:

(1) on the day the dwelling is an exempt dwelling (Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 7(6)(a)(i)); or

(2) in respect of the financial year in which the day falls and the dwelling, the amount set under the Local Government Finance Act 1992 s 30 (as amended) (see para 260 ante) is nil (Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 7(6)(a)(ii)).

For the meaning of 'financial year' under the Local Government Finance Act 1992 see para 231 note 1 ante; and for the meaning of 'exempt dwelling' see para 280 note 6 ante. As to dwellings that may be deemed to be exempt dwellings for the purposes of the Local Government Finance Act 1992 s 14(1), Sch 2 (as amended) (regulations relating to the collection and administration of council tax) see para 258 ante.

5 For these purposes, any reference to the person concerned, in relation to a dwelling, is a reference to the person who would be liable (whether solely or jointly and severally) to pay to the authority an amount in respect of council tax for the particular day if the dwelling were not or had not been a relevant dwelling on that day: Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 7(6)(b). As to references under the Local Government Finance Act 1992 to an amount payable in respect of council tax see para 244 note 3 ante; and as to council tax see para 227 et seq ante. As to the service of notices see para 280 ante.

6 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 7(1) (amended by SI 1992/3008). As to valuation bands see para 244 ante. A notification required to be given by the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 7(1) (as amended) had to be given not later than 31 March 1993: reg 7(4)(a) (substituted by SI 1992/3008).

The Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 7(1) (as amended) is expressed to be subject to reg 7(3A) (as added) and reg 7(5) (see note 9 infra): see reg 7(1) (as so amended). Accordingly, reg 7(1)–(3) (as amended) does not apply in the case of a relevant dwelling which is an exempt dwelling within the Council Tax (Exempt Dwellings) Order 1992, SI 1992/558,

art 3 Class O (as amended) (see para 235 ante): Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 1(2), 7(3A) (reg 1(2) substituted, reg 7(3A) added, by SI 1992/3008).

7 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 7(2)(a). The text refers to a copy of the list sent to the authority under the Local Government Finance Act 1992 s 22(7) (see para 269 ante): see the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 7(2)(a). See note 6 supra.

8 Ibid reg 7(2)(b). See note 6 supra.

9 Ibid reg 7(2) (amended by SI 1992/3008). In circumstances where:

(1) the valuation band shown as applicable to a dwelling in the copy of a proposed list sent to a billing authority under the Local Government Finance Act 1992 s 22(5)(b) (see para 269 ante) is different from that shown as applicable to it in the copy of the list sent to the authority under s 22(7) (see para 269 ante) (Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 7(3)(a)); and

(2) in the opinion of the authority, the dwelling was a relevant dwelling on the day when the list came into force (reg 7(3)(b)),

the authority must notify the person concerned of the reason for the difference (reg 7(3) (amended by SI 1992/3008)). The Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 7(2), (3) (both as amended) is expressed to be subject to reg 7(3A) (as added) (see note 6 supra): see reg 7(2), (3) (both as so amended).

A notification required to be given by reg 7(2), (3) (both as amended) must be given within the period of two months beginning on the day on which the authority received a copy of the list: reg 7(4)(b). If at the time when a person is notified as mentioned in reg 7(3) (as so amended) the authority has not yet given him a notification under reg 7(1) (as amended) (see the text and notes 1–6 supra), the authority is not required to give him such a notification: reg 7(5).

286. Inquiries and assumptions as to dwellings. A billing authority[1] must, as regards each financial year[2] commencing with the financial year beginning on 1 April 1993, take reasonable steps to ascertain whether any dwellings[3] in its area will be or were exempt dwellings[4] for any period during the year[5].

Where, having taken such steps, a billing authority has no reason to believe that a particular dwelling will be or was an exempt dwelling for any period during the year, it must assume, for billing purposes[6], that the dwelling will be or was a chargeable dwelling[7] for that period[8]. Where, having taken such steps, a billing authority has reason to believe that a particular dwelling will be or was an exempt dwelling for a period during the year, it must assume, for billing purposes[9], that the dwelling will be or was an exempt dwelling for that period[10].

1 As to billing authorities see para 229 ante.

2 For the meaning of 'financial year' under the Local Government Finance Act 1992 see para 231 note 1 ante.

3 For the meaning of 'dwelling' see para 232 ante.

4 For the meaning of 'exempt dwelling' see para 280 note 6 ante.

5 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 8.

6 Ie for the purposes of ibid Pt V (regs 17–31) (as amended) (see para 292 et seq post): see reg 9(1).

7 For the meaning of 'chargeable dwelling' under the Local Government Finance Act 1992 see para 233 ante.

8 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 9(1).

9 Ie for the purposes of ibid Pt V (as amended) (see para 292 et seq post): see reg 9(2).

10 Ibid reg 9(2).

287. Notification of assumption. A billing authority[1] which has made an assumption[2] that a particular dwelling[3] will be or was an exempt dwelling[4] for a period during the financial year[5] must inform[6] the relevant person[7] of the assumption made in his case[8]. Such information must be given by notice in writing and as soon as reasonably practicable after the assumption has been made[9].

1 As to billing authorities see para 229 ante.

2 Ie under the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 9(2) (see para 286 ante): see reg 10(1).

3 For the meaning of 'dwelling' see para 232 ante.

4 For the meaning of 'exempt dwelling' see para 280 note 6 ante.

5 For the meaning of 'financial year' under the Local Government Finance Act 1992 see para 231 note 1 ante.

6 Ie in accordance with the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 10(2) (see the text and note 9 infra): see reg 10(1). Information need not be given under reg 10 (as amended):

(1) where the dwelling in respect of which such an assumption is made is an exempt dwelling within the Council Tax (Exempt Dwellings) Order 1992, SI 1992/558, art 3 Class O (as amended) (see para 235 ante) (Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 10(6)(a) (reg 10(6) substituted by SI 1992/3008)); or

(2) in so far as it would be repetitive of information given to the person concerned in accordance with the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 7 (as amended) (see para 285 ante) or any provision of demand notice regulations (reg 10(6)(b) (as so substituted)).

For the meaning of 'demand notice regulations' see para 280 note 15 ante.

7 For these purposes, references to the relevant person are references to a person who, in respect of the particular dwelling, would be liable (whether solely or jointly and severally) to pay to the authority an amount in respect of council tax for the period to which the assumption relates if the dwelling were not or had not been an exempt dwelling for that period: ibid reg 10(7). As to references under the Local Government Finance Act 1992 to an amount payable in respect of council tax see para 244 note 3 ante; and as to council tax see para 227 et seq ante.

8 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 10(1). The provision set out in the text is expressed to be subject to reg 10(5) and reg 10(6) (as substituted) (see note 6 supra): see reg 10(1). Accordingly, where, as regards a particular dwelling and period, there is more than one relevant person, nothing in reg 10(1) requires information to be given, as regards that dwelling and period, to more than one of them: reg 10(5).

9 Ibid reg 10(2). As to the service of notices see para 280 ante.

Subject to reg 10(6) (as substituted) (see note 6 supra), a billing authority must supply with any notice given in accordance with reg 10(2) a statement:

(1) specifying the valuation band shown in the authority's valuation list as applicable to the dwelling (reg 10(3)(a));

(2) summarising the effect of any regulations under the Local Government Finance Act 1992 s 24 (as amended) (alteration of lists) (see para 273 ante) relevant to the making by a person (other than a billing authority) of a proposal for the alteration of that list (Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 10(3)(b));

(3) specifying: (a) where the notice is given after the end of the financial year in which the period to which the assumption relates falls, the amount which, subject to reg 10(4), would have been payable in respect of council tax for that period if the dwelling had been a chargeable dwelling throughout that period (reg 10(3)(c)(i)); or (b) in any other case, the authority's estimate of that amount (reg 10(3)(c)(ii));

(4) summarising the classes of dwelling which are for the time being exempt dwellings for the purposes of the Local Government Finance Act 1992 Pt I Ch I (ss 1–19) (as amended) (see para 231 et seq ante) (Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 10(3)(d)); and

(5) where the amount first set for the financial year in question under the Local Government Finance Act 1992 s 30 (as amended) (see para 260 ante) is nil, that, if the dwelling is or becomes a chargeable dwelling on any day of that year, no council tax is to be payable for that year in respect of the dwelling unless an amount is set in substitution for the nil amount (Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 10(3)(e)).

In determining an amount for the purpose of reg 10(3)(c) (see head (3) supra), the authority must assume that, as regards each day of the period to which the assumption relates, the Local Government Finance Act 1992 s 11 (as amended) (discounts) (see para 245 ante) and s 12 (as substituted) (special provision for discounts) (see para 247 ante), the Social Security Contributions and Benefits Act 1992 s 131 (as substituted) (council tax benefit) (see para 376 post) and regulations under the Local Government Finance Act 1992 s 13 (as amended) (reduced amounts) (see para 257 ante) do not apply in the case of the person concerned: Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 10(4).

As to valuation bands see para 244 ante; and as to valuation lists see para 268 et seq ante. For the meaning of 'chargeable dwelling' under the Local Government Finance Act 1992 see para 233 ante.

288. Correction of assumptions. Where a person:

(1) has been informed[1] of an assumption[2] made in his case that a particular dwelling[3] will be or was an exempt dwelling[4] for a period during the financial year[5]; and

(2) at any time before the end of the financial year following the financial year in respect of which the assumption is made, he has reason to believe that the dwelling concerned[6] will not be or was not an exempt dwelling for the period concerned[7], or will be or was an exempt dwelling for a shorter period[8],

he must, within the period of 21 days beginning on the day on which he first has reason so to believe, notify the authority in writing of his belief[9]. Where persons are jointly and severally liable to pay council tax[10] in respect of the dwelling and period concerned, the duty to supply information in this way is a duty of each of them, but is discharged if one of them supplies the information on behalf of both or all of them[11].

1 Ie in accordance with the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 10(1) (see para 287 ante) or as mentioned in reg 10(6) (as substituted) (see para 287 ante): see reg 11(1)(a).
2 Ie under ibid reg 9(2) (see para 286 ante): see reg 11(1)(a).
3 For the meaning of 'dwelling' see para 232 ante.
4 For the meaning of 'exempt dwelling' see para 280 note 6 ante.
5 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 11(1)(a). For the meaning of 'financial year' under the Local Government Finance Act 1992 see para 231 note 1 ante.
6 References to the dwelling concerned are to the dwelling to which the relevant assumption relates: Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 11(3).
7 References to the period concerned are to the period to which the relevant assumption relates: ibid reg 11(3).
8 Ibid reg 11(1)(b).
9 Ibid reg 11(1). As to the service of notices see para 280 ante.
10 As to council tax generally see para 227 et seq ante; and as to liability to council tax see para 231 et seq ante.
11 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 11(2).

289. Information relating to exempt dwellings etc. A person who appears to a billing authority[1] to be a resident[2], owner[3] or managing agent[4] of a particular dwelling[5] in respect of which an assumption[6] has been made, that the dwelling will be or was an exempt dwelling[7] for a period during the financial year[8], must supply to the authority such information as fulfils the following conditions[9], namely that:

(1) the information is in the possession or control of the person concerned[10];

(2) the authority requests (by notice in writing) the person concerned to supply the information[11]; and

(3) the information is requested by the authority for the purposes of identifying the person who, in respect of any period specified in the notice, is or will be the relevant person[12] in relation to the dwelling[13].

A person on whom such a notice is served must supply the information so requested: (a) within the period of 21 days beginning on the day on which the notice was served[14]; and (b) if the authority so requires, in the form specified in the request[15].

1 As to billing authorities see para 229 ante.
2 For the meaning of 'resident' under the Local Government Finance Act 1992 see para 237 note 4 ante.
3 For the meaning of 'owner' under the Local Government Finance Act 1992 see para 237 note 13 ante.
4 For the meaning of 'managing agent' see para 280 note 9 ante.
5 For the meaning of 'dwelling' see para 232 ante.
6 Ie under the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 9(2) (see para 286 ante): see reg 12(1).
7 For the meaning of 'exempt dwelling' see para 280 note 6 ante.
8 For the meaning of 'financial year' under the Local Government Finance Act 1992 see para 231 note 1 ante.
9 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 12(1).

10 Ibid reg 12(1)(a).
11 Ibid reg 12(1)(b). As to the service of notices see para 280 ante.
12 References to the relevant person are references to a person who, in respect of the particular dwelling:
(1) is or will be liable (whether solely or jointly and severally) to pay to the authority an amount in respect of council tax for the period to which the assumption relates (ibid reg 12(3)(a)); or
(2) would be so liable if the dwelling were not or had not been an exempt dwelling for that period (reg 12(3)(b)).
As to references under the Local Government Finance Act 1992 to an amount payable in respect of council tax see para 244 note 3 ante; and as to council tax see para 227 et seq ante.
13 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 12(1)(c).
14 Ibid reg 12(2)(a).
15 Ibid reg 12(2)(b).

290. Ascertainment of entitlement to and assumptions as to discount. Before making any calculation of the chargeable amount[1] for the purposes of billing[2] in respect of any dwelling in its area, a billing authority must take reasonable steps to ascertain whether that amount is subject to any discount[3], and if so, the amount of that discount[4].

Where, having taken such steps, a billing authority has no reason to believe that the chargeable amount for the financial year concerned is subject to a discount, it must assume, in making any calculation of the chargeable amount for the purposes of billing[5], that the chargeable amount is not subject to any discount[6].

Where, having taken such steps, a billing authority has reason to believe that the chargeable amount for the financial year concerned is subject to a discount of a particular amount, it must assume, in making any calculation of the chargeable amount for the purposes of billing that the chargeable amount is subject to a discount of that amount[7].

1 For these purposes, any reference to the chargeable amount is a reference to an amount which a person is liable to pay (whether solely or jointly and severally) in respect of a particular dwelling to a billing authority in respect of council tax for a financial year and includes, unless the context otherwise requires, an amount which in the opinion of the authority a person will be so liable to pay (Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 13(a)); and any reference to any calculation of the chargeable amount includes a reference to any estimate of the amount (reg 13(b)). For the meaning of 'dwelling' see para 232 ante; and for the meaning of 'financial year' under the Local Government Finance Act 1992 see para 231 note 1 ante. As to references under the Local Government Finance Act 1992 to an amount payable in respect of council tax see para 244 note 3 ante; and as to council tax see para 227 et seq ante. As to billing authorities see para 229 ante.
2 Ie for the purposes of the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, Pt V (regs 17–31) (as amended) (see para 292 et seq post): see reg 14 (as substituted: see note 4 infra).
3 For these purposes, 'discount' means a discount under the Local Government Finance Act 1992 s 11 (as amended) (discounts) (see para 245 ante) or s 11A (as added) (special provision for discounts where dwellings in England have no resident) (see para 246 ante) or a reduction in the amount of council tax payable for a dwelling under s 13A (as added) (billing authority's power to reduce amounts of council tax) (see para 258 ante) where the dwelling falls into a class for which the billing authority has determined under s 13A(3) (as added) (see para 258 ante) that liability is to be reduced otherwise than to nil: Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 1(2) (definition added in relation to Wales by SI 2004/785; and in relation to England by SI 2004/927).
4 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 14 (substituted in relation to Wales by SI 2004/785; and in relation to England by SI 2004/927).
5 Ie for the purposes of the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, Pt V (as amended) (see para 292 et seq post): see reg 15(1).
6 Ibid reg 15(1).
7 Ibid reg 15(2).

291. Correction of discount assumptions. Where a person:
(1) has been informed in accordance with any provision of demand notice regulations[1] of an assumption as to discount[2] made in his case[3]; and

(2) at any time before the end of the financial year[4] following the financial year in respect of which the assumption is made, he has reason to believe that the chargeable amount[5] is not in fact subject to any discount, or is subject to a discount of a smaller amount[6],

he must, within the period of 21 days beginning on the day on which he first has reason so to believe, notify the authority in writing of his belief[7]. Where persons are jointly and severally liable to pay council tax[8] in respect of the dwelling[9] and period concerned, the duty so to supply information is a duty of each of them, but is discharged if one of them supplies the information on behalf of both or all of them[10].

For these purposes, the fact that any person concerned has wholly or partly discharged his liability to pay the amount must be ignored[11].

1. For the meaning of 'demand notice regulations' see para 280 note 15 ante.
2 For the meaning of 'discount' for these purposes see para 290 note 3 ante.
3 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 16(1)(a).
4 For the meaning of 'financial year' under the Local Government Finance Act 1992 see para 231 note 1 ante.
5 As to references to the chargeable amount for these purposes see para 290 note 1 ante.
6 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 16(1)(b).
7 Ibid reg 16(1).
8 As to council tax generally see para 227 et seq ante; and as to liability to council tax see para 231 et seq ante.
9 For the meaning of 'dwelling' see para 232 ante.
10 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 16(2).
11 Ibid reg 16(3).

(iii) Demand Notices and Reminder Notices

292. The requirement for demand notices. For each financial year[1], a billing authority[2] must serve a notice in writing on every liable person[3]. However, where[4] notices would fall to be served in accordance with the billing provisions[5] at the same time[6] and in respect of the same dwelling[7], in relation to a financial year not then ended and any preceding financial year, a billing authority is not required thereby to serve more than one notice[8]. If a person is liable in any financial year to pay to the same billing authority different chargeable amounts in respect of different dwellings, a demand notice[9] must be served in respect of each chargeable amount[10].

1 For the meaning of 'financial year' under the Local Government Finance Act 1992 see para 231 note 1 ante.
2 As to billing authorities see para 229 ante.
3 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 18(1). The text refers to service in accordance with regs 19–21 (as amended) (see also paras 295, 296 post): see reg 18(1). As to the service of notices generally see para 280 ante. Except where the context otherwise requires, and subject to reg 17(5), any reference in Pt V (regs 17–31) (as amended) (see para 295 et seq post) to the liable person (however expressed) is a reference:

(1) to a person who is, or in the opinion of the billing authority will be, solely liable to pay to the authority, an amount in respect of council tax in respect of a particular dwelling and a day (reg 17(2)(a) (reg 17(2) substituted by SI 1992/3008)); or

(2) where persons are joint taxpayers, to those persons (Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 17(2)(b) (as so substituted)).

'Joint taxpayers' means two or more persons who are (or in the opinion of the billing authority will be) jointly and severally liable to pay to the authority an amount in respect of council tax in respect of a particular dwelling and a day (whether such liability arises by virtue of the Local Government Finance Act 1992 s 6(3) or s 6(4)(b) (see para 237 ante), s 7(4) or s 7(5) (see para 238 ante), s 8(4) or s 8(5) (see para 239 ante) or s 9(1) (as amended) (see para 240 ante)): Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 17(1) (definition added by SI 1992/3008). The Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, Pt V (as amended) applies (amongst other matters) for the making of payments in relation to the chargeable amount for a financial year; but its application as regards persons who are joint taxpayers is subject to the provisions of

reg 27 (as substituted), reg 28 (as substituted and amended) (see para 297 post) and reg 28A (as added) (see para 297 post): reg 17(5) (substituted by SI 1992/3008). Various provisions of the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, Pt V (as amended) are modified by reg 27 (as substituted), which applies in the case of joint taxpayers, although its application to joint taxpayers on whom a joint taxpayers' notice is served is subject to reg 28A (as added): see reg 27 (substituted by SI 1992/3008). For the meaning of 'joint taxpayers' notice' see para 297 note 4 post. For these purposes, any reference to the chargeable amount is a reference to the amount the liable person is or will be liable to pay: Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 17(3). For the meaning of 'dwelling' see para 232 ante. As to references under the Local Government Finance Act 1992 to an amount payable in respect of council tax see para 244 note 3 ante; and as to council tax see para 227 et seq ante.

The liability to pay council tax requires a demand by the billing authority to transform it into a duty to pay: see *Regentford Ltd v Thanet District Council* [2004] EWHC 246 (Admin), [2004] RA 113, (2004) Times, 4 March (there is an analogy between liability for council tax and the liability in the ordinary sense of a guarantor who is at all times exposed to a potential duty to discharge the guaranteed obligation, but a duty that is triggered only when a demand is made of him).

4 Ie but for the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 18 (as amended): see reg 18(2) (as amended: see note 8 infra).

5 Ibid reg 18(2) (as amended: see note 8 infra). The text refers to notices falling to be served in accordance with Pt V (as amended) (see para 295 et seq post): see reg 18(2) (as so amended).

6 Ibid reg 18(2)(a). Any reference to the day on or time at which a notice is issued, is a reference:

(1) if the notice is served in the manner described in the Local Government Act 1972 s 233(2) (service of notices to local authorities) (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 443) by being left at, or sent by post to, a person's proper address, to the day on or time at which it is so left or posted (Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 17(4)(a)); or

(2) in any other case, to the day on or time at which the notice is served (reg 17(4)(b)).

7 Ibid reg 18(2)(b).

8 Ibid reg 18(2) (amended by SI 1997/393).

9 'Demand notice' means the notice required to be served by the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 18(1) (see the text and notes 1–3 supra): reg 17(1).

10 Ibid reg 18(3).

293. Content of demand notices. A council tax demand notice[1] served in England and Wales[2] for any financial year[3] beginning on or after 1 April 2004 must contain certain matters prescribed by regulation[4], as follows:

(1) a statement of the name (if any) of the person to whom the notice is given[5];

(2) a statement of the day of issue of the notice[6];

(3) a statement of the period to which the notice relates[7];

(4) a statement of the address of the dwelling to which the notice relates (the 'relevant dwelling')[8];

(5) a statement of the relevant valuation band as regards the relevant dwelling[9];

(6) a statement as regards: (a) the relevant year;[10] (b) the category of dwellings which includes the relevant dwelling[11]; and (c) the relevant valuation band[12], of the amounts set or calculated for these purposes[13];

(7) a statement of the days (if any) as regards which it was assumed that the amount required to be paid under the notice would fall to be calculated by reference to provisions governing discounts and reductions[14];

(8) a statement of the amount (if any) falling to be credited against the amount of council tax which would otherwise be payable for the relevant year[15];

(9) a statement of the amount of any penalty or penalties or any overpayment of council tax benefit being recovered under the notice[16];

(10) where the notice requires the payment of an amount of council tax in respect of the relevant dwelling and a financial year (or years) preceding the relevant year and there has not previously been served on the person to whom the notice is issued a council tax demand notice requiring payment of that amount, a statement of that amount[17];

(11) a statement of the amount required to be paid under the notice, together with a statement of the instalments or other payments required to be paid and the manner in which those payments may be made[18];

(12) a statement of the address and telephone number to which inquiries may be directed as to any matter of which a statement is required to be given by any of heads (1) to (11) above[19];

(13) explanatory notes, which must include a general indication of the principles relevant to the compilation of the authority's valuation list[20], a general indication as to the circumstances in which exemptions, discounts or reductions may be applied[21] and a statement as to the procedures to be followed either by a person who wishes to dispute any matter shown in the authority's valuation list in relation to the dwelling to which the notice relates[22] or by a person aggrieved[23].

So that a billing authority may fulfil its obligations with regard to the information which must be supplied with council tax demand notices[24], such information as is specified (mostly relating to financial estimates and budgetary matters) must be supplied to it by precepting authorities[25] and (in relation to England only) by levying bodies[26].

1 For these purposes, 'council tax demand notice' means a demand notice within the meaning of the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, Pt V (regs 17–31) (as amended) (see paras 292 ante, 295 et seq post) which is served by a billing authority or any person authorised by a billing authority to exercise any functions relating to the administration of the council tax: see the Council Tax (Demand Notices) (Wales) Regulations 1993, SI 1993/255, reg 2(1) (definition amended by SI 1996/1880); and the Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003, SI 2003/2613, reg 1(2). As to billing authorities see para 229 ante.

2 For the meanings of 'England' and 'Wales' see para 1 note 2 ante.

3 For the meaning of 'financial year' under the Local Government Finance Act 1992 see para 231 note 1 ante.

4 Council Tax (Demand Notices) (Wales) Regulations 1993, SI 1993/255, regs 1, 3(1) (reg 1 amended by SI 1996/1880); Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003, SI 2003/2613, regs 2, 3(1). The text refers to the matters prescribed, in relation to Wales, in the Council Tax (Demand Notices) (Wales) Regulations 1993, SI 1993/255, reg 3(1), Sch 1 (as amended) (see heads (1) to (13) in the text) and, in relation to England, in the Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003, SI 2003/2613, reg 3(1), Sch 1 (as amended) (see heads (1) to (13) in the text): see the Council Tax (Demand Notices) (Wales) Regulations 1993, SI 1993/255, reg 3(1); and the Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003, SI 2003/2613, reg 3(1). As to demand notices which are invalid through non-compliance with the requirement to contain specified matters see para 294 post.

When a billing authority in England serves a council tax demand notice it must supply to the person on whom the notice is served the information mentioned in reg 3(4), Sch 3 Pts I, III (Sch 3 Pt III amended by SI 2003/3081; SI 2006/3395): see the Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003, SI 2003/2613, reg 3(4). This does not apply when a council tax demand notice is served after the end of the relevant year: see reg 3(5). 'Relevant year', in relation to a demand notice, means the financial year to which the demand for payment made by the notice relates: see reg 1(2). Without prejudice to the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 18(2) (as amended) (see para 292 ante), a council tax demand notice which is served on a person after the end of the relevant year and at the same time as a council tax demand notice relating to another financial year not then ended is served on him, need not contain the matter specified in head (13) in the text: Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003, SI 2003/2613, reg 3(2).

When a billing authority in Wales serves a council tax demand notice, it must supply to the person on whom the notice is served the information mentioned in the Council Tax (Demand Notices) (Wales) Regulations 1993, SI 1993/255, reg 4(1), Sch 2 Pts I, II (Sch 2 Pt I amended by SI 1995/160; SI 1996/310; SI 2004/460): see the Council Tax (Demand Notices) (Wales) Regulations 1993, SI 1993/255, reg 4(1). This does not apply when a council tax demand notice is served after the end of the relevant year: see reg 4(2). 'Relevant year', in relation to a demand notice, means the financial year to which the demand for payment made by the notice relates: see reg 2(1). If it appears requisite to such a billing authority when it serves a demand notice that the information mentioned in Sch 2 Pt I (as amended) should be supplied in English and Welsh, instead of in English or in Welsh, it is to be so supplied: see reg 4(3).

Nothing requires a council tax demand notice to be given on a single sheet of paper, but if more than one sheet is used, the sheets are to be issued together, whether or not attached, so as to comprise one notice: Council Tax (Demand Notices) (Wales) Regulations 1993, SI 1993/255, reg 3(2); Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003, SI 2003/2613, reg 3(6).

5 Council Tax (Demand Notices) (Wales) Regulations 1993, SI 1993/255, Sch 1 para 1; Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003, SI 2003/2613, Sch 1 para 1.

6 Council Tax (Demand Notices) (Wales) Regulations 1993, SI 1993/255, Sch 1 para 2; Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003, SI 2003/2613, Sch 1 para 2.

7 Council Tax (Demand Notices) (Wales) Regulations 1993, SI 1993/255, Sch 1 para 3; Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003, SI 2003/2613, Sch 1 para 3.

8 Council Tax (Demand Notices) (Wales) Regulations 1993, SI 1993/255, Sch 1 para 4; Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003, SI 2003/2613, Sch 1 para 4. For the meaning of 'dwelling' see para 232 ante.

9 Council Tax (Demand Notices) (Wales) Regulations 1993, SI 1993/255, Sch 1 para 5; Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003, SI 2003/2613, Sch 1 para 5. Any reference to the relevant valuation band in relation to a dwelling is a reference to the valuation band shown as applicable to the dwelling in the billing authority's valuation list: see the Council Tax (Demand Notices) (Wales) Regulations 1993, SI 1993/255, reg 2(2) (reg 2(2), (3) added by SI 2004/460); and the Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003, SI 2003/2613, reg 1(3) (amended by SI 2003/3081). As to valuation bands see para 244 ante; and as to valuation lists see para 268 et seq ante.

If a new valuation list is due to come into force in relation to Wales for the relevant year under the Local Government Finance Act 1992 s 22B(2) (as added and amended) (see para 271 ante) or s 22B(3) (as added and amended) (see para 271 ante), then the reference is to the valuation band shown as applicable to the dwelling in the list proposed to be compiled as the new list (the 'proposed list') by the listing officer and sent to the billing authority under s 22B(7) (as added) (see para 271 ante) or, where the listing officer supplies the authority with information relating to property shown in the proposed list (including information relating to the application to such property of the Council Tax (Chargeable Dwellings) Order 1992, SI 1992/549, art 3 (as amended) (see para 232 ante) or art 4 (see para 232 ante)), in information ('relevant information') to the extent that it differs from information contained in the proposed list: see the Council Tax (Demand Notices) (Wales) Regulations 1993, SI 1993/255, reg 2(2), (3) (as so added). As to listing officers see para 230 ante.

10 Council Tax (Demand Notices) (Wales) Regulations 1993, SI 1993/255, Sch 1 para 6(1)(a); Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003, SI 2003/2613, Sch 1 para 6(1)(a).

11 Council Tax (Demand Notices) (Wales) Regulations 1993, SI 1993/255, Sch 1 para 6(1)(b); Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003, SI 2003/2613, Sch 1 para 6(1)(b).

12 Council Tax (Demand Notices) (Wales) Regulations 1993, SI 1993/255, Sch 1 para 6(1)(c); Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003, SI 2003/2613, Sch 1 para 6(1)(c).

13 See the Council Tax (Demand Notices) (Wales) Regulations 1993, SI 1993/255, Sch 1 paras 6(2), (3); and the Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003, SI 2003/2613, Sch 1 paras 6(2), (3), 7–8A (Sch 1 para 8A added by SI 2003/3081; substituted by SI 2006/3395).

14 See the Council Tax (Demand Notices) (Wales) Regulations 1993, SI 1993/255, Sch 1 paras 7–9 (Sch 1 para 7 amended by SI 2004/460; SI 2006/217); and the Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003, SI 2003/2613, Sch 1 para 9 (amended by SI 2003/3081; SI 2006/217); the Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003, SI 2003/2613, Sch 1 para 10 (substituted by SI 2003/3081; amended by SI 2006/3395); the Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003, SI 2003/2613, Sch 1 para 11.

15 Council Tax (Demand Notices) (Wales) Regulations 1993, SI 1993/255, Sch 1 para 10; Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003, SI 2003/2613, Sch 1 para 12.

16 Council Tax (Demand Notices) (Wales) Regulations 1993, SI 1993/255, Sch 1 para 11; Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003, SI 2003/2613, Sch 1 para 13.

17 Council Tax (Demand Notices) (Wales) Regulations 1993, SI 1993/255, Sch 1 para 12; Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003, SI 2003/2613, Sch 1 para 14.

18 Council Tax (Demand Notices) (Wales) Regulations 1993, SI 1993/255, Sch 1 para 13; Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003, SI 2003/2613, Sch 1 para 15.

19 Council Tax (Demand Notices) (Wales) Regulations 1993, SI 1993/255, Sch 1 para 14; Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003, SI 2003/2613, Sch 1 para 16.

20 Council Tax (Demand Notices) (Wales) Regulations 1993, SI 1993/255, Sch 2 Pt I para 15(a); Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003, SI 2003/2613, Sch 1 para 17(a).
21 Council Tax (Demand Notices) (Wales) Regulations 1993, SI 1993/255, Sch 2 Pt I para 15(b), (c) (Sch 2 Pt I para 15(b), (c) amended by SI 2004/460); Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003, SI 2003/2613, Sch 1 para 17(b) (amended by SI 2003/3081).
22 Council Tax (Demand Notices) (Wales) Regulations 1993, SI 1993/255, Sch 2 Pt I para 15(d)(i); Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003, SI 2003/2613, Sch 1 para 17(c)(i).
23 Council Tax (Demand Notices) (Wales) Regulations 1993, SI 1993/255, Sch 2 Pt I para 15(d)(ii); Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003, SI 2003/2613, Sch 1 para 17(c)(ii). The reference in head (13) in the text to a person aggrieved is to a person aggrieved as mentioned in the Local Government Finance Act 1992 s 16(1) (see para 353 post): see the Council Tax (Demand Notices) (Wales) Regulations 1993, SI 1993/255, Sch 2 Pt I para 15(d)(ii); and the Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003, SI 2003/2613, Sch 1 para 17(c)(ii).
24 Ie, in relation to Wales, under the Council Tax (Demand Notices) (Wales) Regulations 1993, SI 1993/255, reg 4 (see note 4 supra) or, in relation to England, under the Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003, SI 2003/2613, reg 3 (see note 4 supra).
25 See the Council Tax (Demand Notices) (Wales) Regulations 1993, SI 1993/255, reg 6 (amended by SI 1996/310); and the Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003, SI 2003/2613, reg 5. As to precepting authorities see para 228 note 21 ante.
26 See ibid reg 6. As to levying bodies see LOCAL GOVERNMENT vol 29(1) (Reissue) para 530.

294. Consequence of omissions. A council tax demand notice[1] in England and Wales[2] is invalid if it does not contain the matters prescribed by regulation[3].

However, where the failure so to comply was due to a mistake[4], and where the amounts required to be paid under the notice were duly demanded in accordance with the administration provisions[5], the requirement to pay those amounts applies as if the notice were valid[6]. In such circumstances, the billing authority[7] must, as soon as practicable after the mistake is discovered, issue to the liable ratepayer concerned a statement of the matters which were not contained in the notice and which should have been so contained[8].

1 For the meaning of 'council tax demand notice' see para 293 note 1 ante.
2 For the meanings of 'England' and 'Wales' see para 1 note 2 ante.
3 Council Tax (Demand Notices) (Wales) Regulations 1993, SI 1993/255, reg 5(1)(a); Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003, SI 2003/2613, reg 4(1)(a). The text refers to compliance with, in relation to Wales, the Council Tax (Demand Notices) (Wales) Regulations 1993, SI 1993/255, reg 3(1) (see para 293 ante) and, in relation to England, the Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003, SI 2003/2613, reg 3(1) (see para 293 ante): see the Council Tax (Demand Notices) (Wales) Regulations 1993, SI 1993/255, reg 5(1)(a); and the Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003, SI 2003/2613, reg 4(1)(a).
4 Council Tax (Demand Notices) (Wales) Regulations 1993, SI 1993/255, reg 5(1)(b); Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003, SI 2003/2613, reg 4(1)(b).
5 Council Tax (Demand Notices) (Wales) Regulations 1993, SI 1993/255, reg 5(1)(c); Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003, SI 2003/2613, reg 4(1)(c). The provisions referred to in the text are the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, Pt V (as amended) (see paras 292 ante, 295 et seq post): see the Council Tax (Demand Notices) (Wales) Regulations 1993, SI 1993/255, reg 5(1)(c); and the Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003, SI 2003/2613, reg 4(1)(c).
6 Council Tax (Demand Notices) (Wales) Regulations 1993, SI 1993/255, reg 5(1); Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003, SI 2003/2613, reg 4(1).
7 As to billing authorities see para 229 ante.
8 Council Tax (Demand Notices) (Wales) Regulations 1993, SI 1993/255, reg 5(2); Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003, SI 2003/2613, reg 4(3).

295. Service of demand notices. The council tax demand notice[1] is to be served[2] on or as soon as practicable after the day[3] the billing authority[4] first sets an amount of

council tax[5] for the relevant year[6] for the category[7] of dwellings which includes the chargeable dwelling to which the notice relates[8].

1 For the meaning of 'demand notice' see para 292 note 9 ante. As to council tax generally see para 227 et seq ante.
2 As to the service of notices generally see para 280 ante. The use of the words 'is to be' in the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 19 (as substituted) admitted of the construction that a breach of that statutory duty by a billing authority did not operate in all cases as a windfall to the person liable, but precluded a claim to payment and a duty to pay only when the breach had occasioned some procedural or substantive prejudice: see *Regentford Ltd v Thanet District Council* [2004] EWHC 246 (Admin), [2004] RA 113, (2004) Times, 4 March.
3 As to the day on or time at which a notice is issued see para 292 note 6 ante.
4 As to billing authorities see para 229 ante.
5 As to references under the Local Government Finance Act 1992 to an amount payable in respect of council tax see para 244 note 3 ante.
6 'Relevant year', in relation to a notice, means the financial year to which the notice relates: Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 17(1). For the meaning of 'financial year' under the Local Government Finance Act 1992 see para 231 note 1 ante.
7 For these purposes, 'category' is to be construed in accordance with the Local Government Finance Act 1992 s 30(4) (see para 260 ante); and where a demand notice was served before 1 April 1993, a dwelling was to be treated as included in the category in which, in the opinion of the billing authority, it would be included on 1 April 1993: Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 19(2) (reg 19 substituted by SI 1992/3008). For the meaning of 'dwelling' see para 232 ante.
8 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 19(1) (as substituted: see note 7 supra).

296. Demand notices: payments required. If the council tax demand notice[1] is issued before or during the relevant year[2], the notice must require the making of payments on account of the following amount[3]:

(1) the billing authority's[4] estimate of the chargeable amount[5], made as respects the relevant year (or part, as the case may be) on the assumptions referred to in heads (a) to (g) below[6]; or
(2) where an amount falls to be credited[7] by the billing authority against the chargeable amount, the amount (if any) by which the amount estimated as mentioned in head (1) above exceeds the amount falling to be so credited[8].

The assumptions on which an estimate is made are:

(a) that the person will be liable to pay the council tax[9] to which the notice relates on every day after the issue of the notice[10];
(b) that, as regards the dwelling concerned, the relevant valuation band[11] on the day the notice is issued will remain the relevant valuation band for the dwelling as regards every day after the issue of the notice[12];
(c) if on the day the notice is issued the person satisfies conditions prescribed for the purposes of allowing reduced amounts to be paid[13] (and consequently the chargeable amount in his case is less than it would otherwise be), that he will continue to satisfy those conditions as regards every day after the issue of the notice[14];
(d) if[15] the dwelling to which the notice relates is assumed to be a chargeable dwelling[16] on the day the notice is issued, that it will continue to be a chargeable dwelling as regards every day after the issue of the notice[17];
(e) if[18] the chargeable amount is assumed not to be subject to a discount on the day the notice is issued, that it will not be subject to a discount as regards any day after the issue of the notice[19];
(f) if[20] the chargeable amount is assumed to be subject to a discount on the day the notice is issued, that it will continue to be subject to the same rate of discount as regards every day after the issue of the notice[21]; and

(g) if on the day the notice is issued a determination as to council tax benefit to which the person is entitled is in effect, and by virtue of regulations which prescribe the nature of such benefits[22] the benefit allowed as regards that day takes the form of a reduction in the amount the person is liable to pay in respect of council tax for the relevant year, that as regards every day after that day he will be allowed the same reduction in that amount[23].

If the demand notice is issued during the relevant year and the liable person is not liable to pay an amount by way of council tax in respect of the day on which the notice is issued, the demand notice must require payment of[24]:

(i) the chargeable amount for the period in the year up to the last day in respect of which he was so liable[25]; or

(ii) where an amount falls to be credited by the billing authority against that chargeable amount, an amount equal to the amount (if any) by which that chargeable amount exceeds the amount falling to be so credited[26].

If the demand notice is issued after the end of the relevant year, it must require payment of[27]:

(A) the chargeable amount[28]; or

(B) where an amount falls to be credited by the billing authority against the chargeable amount, an amount equal to the amount (if any) by which the chargeable amount exceeds the amount falling to be so credited[29].

No payment on account of the chargeable amount (whether interim, final or sole) need be made unless a notice served under the billing provisions[30] requires it[31].

1 For the meaning of 'demand notice' see para 292 note 9 ante. As to council tax generally see para 227 et seq ante.

2 For the meaning of 'relevant year' for these purposes see para 295 note 6 ante. As to the service of notices generally see para 280 ante.

3 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 20(1). The payments are generally to be paid by instalments: see note 8 infra.

4 As to billing authorities see para 229 ante.

5 As to references to the chargeable amount for these purposes see para 292 note 3 ante.

6 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 20(2)(a). See also note 8 infra.

7 The provisions of ibid Pt V (regs 17–31) (as amended) (see paras 292 et seq ante, 297 et seq post) which provide for the repayment or crediting of any amount or the adjustment of payments due under a notice have effect subject to the Local Government Finance Act 1992 s 31(4) (see para 261 ante): Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 17(6).

8 Ibid reg 20(2)(b). Unless:

(1) an agreement under reg 21(5) in relation to the relevant year has been reached between the billing authority and the liable person before the demand notice is issued (reg 21(1)(a)); or

(2) the authority has resolved that a Part II scheme is to have effect for the relevant year as regards dwellings of a class which includes the dwelling in respect of which the chargeable amount falls to be paid (reg 21(1)(b)),

a notice to which reg 20(1) (see the text and notes 1–3 supra) applies must require the amount mentioned in reg 20(2) to be paid by instalments in accordance with reg 21, Sch 1 Pt I (as amended) (see para 300 post): reg 21(1). 'Part II scheme' means a scheme for the payment of the chargeable amount by instalments in accordance with a scheme complying with the requirements of Sch 1 Pt II (as amended) (see para 301 post): reg 17(1). For the meaning of 'dwelling' see para 232 ante. For the meaning of references to the liable person see para 292 note 3 ante.

A billing authority and a liable person may agree that the amount mentioned in reg 20(2) which is required to be paid under a notice to which reg 20(1) applies must be paid in such manner as is provided by the agreement: reg 21(5). Where a billing authority has resolved as mentioned in head (2) supra, a notice to which reg 20(1) applies must require the amount mentioned in reg 21(2) to be paid by instalments in accordance with the provisions of the authority's Part II scheme: reg 21(2). Where instalments are required to be paid in accordance with a Part II scheme or under Sch 1 Pt I (as amended), Sch 1 Pt III (as amended) (see paras 302–303 post) applies for their cessation or adjustment in the circumstances described in Sch 1 Pt III (as amended) (subject, in the case of payments in accordance with a Part II scheme, to provision included in the scheme pursuant to Sch 1 Pt II para 8(6) (see para 301

post)): reg 21(3). If an agreement under reg 21(5) in relation to the relevant year has been reached between the billing authority and the liable person before the demand notice is issued, a notice to which reg 20(1) applies must require the amount mentioned in reg 20(2) to be paid in accordance with that agreement: reg 21(4). Notwithstanding the provisions of reg 21(1)–(5), such an agreement may be entered into either before or after the demand notice concerned is issued, and may make provision for the cessation or adjustment of payments, and for the making of fresh estimates, in the event of the estimate mentioned in reg 20(2) turning out to be wrong; and if it is entered into after the demand notice has been issued, it may make provision dealing with the treatment for the purposes of the agreement of any sums paid in accordance with Sch 1 Pt I (as amended) or a Part II scheme before it was entered into: reg 21(6). See also note 7 supra.

9 As to liability to council tax generally see para 231 et seq ante.

10 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 20(3)(a). As to the day on or time at which a notice is issued see para 292 note 6 ante.

11 Any reference to the relevant valuation band in relation to a dwelling is a reference to the valuation band shown as applicable to the dwelling in the billing authority's valuation list: ibid reg 17(1A)(a) (reg 17(1A), (1B) added by SI 1993/196). As to valuation bands see para 244 ante; and as to valuation lists see para 268 et seq ante. If no such list is in force, the reference is to the valuation band shown as applicable to the dwelling:

(1) except in a case to which the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 17(1B) (as added) applies, in the copy of the proposed list supplied to the authority between 15 November 1992 and 1 December 1992 (i e under the Local Government Finance Act 1992 s 22(5)(b) (see para 269 ante)) (Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 17(1A)(b)(i) (as so added));

(2) in a case to which reg 17(1B) (as added) applies, in information which for the purposes of reg 17(1A) (as so added) is relevant information (reg 17(1A)(b)(ii) (as so added)).

The provisions of reg 17(1B) (as added) apply where the listing officer supplies the authority with information relating to property shown in the proposed list (including information relating to the application to such property of the Council Tax (Chargeable Dwellings) Order 1992, SI 1992/549, art 3 (as amended) (see para 232 ante) or art 4 (see para 232 ante)); and such information is relevant information for the purposes of the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 17(1A)(b)(ii) (as added) to the extent that it differs from information contained in the proposed list: reg 17(1B) (as so added). As to listing officers see para 268 ante.

12 Ibid reg 20(3)(b).

13 Ie conditions prescribed for the purposes of regulations under the Local Government Finance Act 1992 s 13 (as amended) (see para 257 ante): see the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 20(3)(c). 'Prescribed' means prescribed by regulations made by the Secretary of State (or by the Welsh Ministers, as the case may be): Local Government Finance Act 1992 s 116(1). As to the Secretary of State and the Welsh Ministers, and as to the making of regulations under the Local Government Finance Act 1992 generally, see para 228 ante.

14 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 20(3)(c).

15 Ie by virtue of ibid reg 9(1) (see para 286 ante): see reg 20(3)(d).

16 For the meaning of 'chargeable dwelling' under the Local Government Finance Act 1992 see para 233 ante.

17 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 20(3)(d).

18 Ie by virtue of ibid reg 15(1) (see para 290 ante): see reg 20(3)(e).

19 Ibid reg 20(3)(e).

20 Ie by virtue of ibid reg 15(2) (see para 290 ante): see reg 20(3)(f).

21 Ibid reg 20(3)(f).

22 Ie under the Social Security Administration Act 1992 s 138(1) (as substituted and amended) (see para 386 post): see the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 20(3)(g).

23 Ibid reg 20(3)(g).

24 Ibid reg 20(4). A notice to which reg 20(4) or reg 20(5) (see the text and notes 27–29 infra) applies must (as the billing authority determines) require payment of the amount concerned:

(1) on the expiry of such period (being not less than 14 days) after the day of issue of the notice as is specified in it (reg 21(7)(a)); or

(2) by instalments of such amounts as are specified in the notice, payable at such intervals and on such day in each interval as is so specified (reg 21(7)(b)).

25 Ibid reg 20(4)(a).

26 Ibid reg 20(4)(b).

27 Ibid reg 20(5). See note 24 supra.

28 Ibid reg 20(5)(a).

29 Ibid reg 20(5)(b).

30 Ie ibid Pt V (as amended) (see paras 292 et seq ante, 297 et seq post): see reg 22.
31 Ibid reg 22.

297. Joint taxpayers' notice. An amount payable by way of council tax[1] is not payable by a person who is one of joint taxpayers[2] and on whom a council tax demand notice[3] has not been served unless a notice ('joint taxpayers' notice') is served on him in accordance with the following provisions[4]. A joint taxpayers' notice may not be served on a person after the expiry of the period of six years beginning with the first day of the financial year[5] to which the notice relates[6]. Where:

(1) a joint taxpayers' notice is served during the relevant year[7]; and
(2) the person on whom (as one of the joint taxpayers) a demand notice for that year was served (or, if more than one person was so served, each of them) is not on the day of issue of the notice[8] one of the joint taxpayers[9]; and
(3) the unpaid balance of the estimated amount has not become due[10],

the notice is to require the payment of the adjusted amount[11].

The amount required to be so paid is payable by instalments of such amounts, and at such intervals and on such days in each interval, as are specified in the notice; provided that the number of instalments is not less than the number of instalments payable under the agreement, the demand notice or any subsequent notice[12], as the case may be, as regards the period beginning on the day on which the joint taxpayers' notice is served and ending on the last day of the relevant year[13].

A joint taxpayers' notice which is issued after the end of the relevant year, or after the unpaid balance of the estimated amount has become due[14], must (as the billing authority determines) require payment of the amount concerned[15]:

(a) on the expiry of such period (being not less than 14 days) after the issue of the notice as is specified in it[16]; or
(b) by instalments of such amounts as are specified in the notice, payable at such intervals and on such day in each interval as is so specified[17].

A billing authority and a person on whom a joint taxpayers' notice is served may agree that the amount required to be paid under the notice must be paid in such manner as is provided by the agreement[18].

If the amount required to be paid under a joint taxpayers' notice is shown to be incorrect, the billing authority must serve a further notice on every person on whom the joint taxpayers' notice was served stating the revised sum required to be paid[19]. If the amount stated in the further notice so served is greater than the amount required to be paid under the joint taxpayers' notice, the further notice must also state the revised amount of each remaining instalment or, as the case may be, the period (being not less than 14 days) after the issue of that further notice within which the further sum payable is required to be paid[20]. If the amount stated in the further notice so served is less than the amount required to be paid under the joint taxpayers' notice, any overpayment:

(i) must be repaid[21] if the person on whom the joint taxpayers' notice was served so requires[22]; or
(ii) in any other case must (as the billing authority determines) either be repaid or be credited against any subsequent liability of that person to make a payment in respect of council tax to the authority[23].

1 As to references under the Local Government Finance Act 1992 to an amount payable in respect of council tax see para 244 note 3 ante; and as to council tax see para 227 et seq ante.
2 For the meaning of 'joint taxpayers' see para 292 note 3 ante.
3 For the meaning of 'demand notice' see para 292 note 9 ante.
4 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 28(1) (reg 28 substituted, and reg 28A added, by SI 1992/3008). Accordingly, 'joint taxpayers' notice' means a notice

served in accordance with the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 28 (as substituted): reg 17(1) (definition added by SI 1992/3008). As to the service of notices generally see para 280 ante.

5 For the meaning of 'financial year' under the Local Government Finance Act 1992 see para 231 note 1 ante.

6 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 28(2) (as substituted: see note 4 supra).

7 Ibid reg 28(3)(a) (as substituted: see note 4 supra). For the meaning of 'relevant year' for these purposes see para 295 note 6 ante.

8 As to the day on or time at which a notice is issued see para 292 note 6 ante.

9 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 28(3)(b) (as substituted: see note 4 supra).

10 Ibid reg 28(3)(c) (as substituted: see note 4 supra). The text refers to the unpaid balance that has not become due as mentioned in reg 23(3), (4) (as amended) (see para 298 post): see reg 28(3)(c) (as so substituted).

11 Ibid reg 28(3) (as substituted: see note 4 supra). For these purposes, 'adjusted amount' means an amount equal to the lesser of the billing authority's estimate of the chargeable amount made as respects the period to which the joint taxpayers' notice relates and the relevant sum: see reg 28(4) (reg 28(4) as so substituted; definition amended by SI 1994/505). The Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 20(3) (see para 296 ante) has effect for these purposes as it has effect in a case to which reg 27 (as substituted) (see para 292 ante) applies and as if references in reg 27(2)(b) (application with modifications of reg 20) to the demand notice were references to the joint taxpayers' notice: see reg 28(4) (as so substituted and amended). For these purposes, 'relevant sum' means an amount equal to the difference between:

(1) the amount estimated or last estimated as regards the dwelling concerned:
   (a) for the purposes of an agreement under reg 21(5) (see para 296 ante) (reg 28(4)(a)(i) (as so substituted)); or
   (b) under reg 20(2) (see para 296 ante) for the purposes of the demand notice or any subsequent notice given under reg 21, Sch 1 Pt III para 10 (as amended) (see para 303 post) (reg 28(4)(a)(ii) (as so substituted)); and
(2) the aggregate of the amounts paid to the authority under any such agreement or notice before the issue of the joint taxpayers' notice (reg 28(4)(b) (as so substituted)).

For the meaning of 'dwelling' see para 232 ante. As to billing authorities see para 229 ante. As to references to the chargeable amount for these purposes see para 292 note 3 ante.

12 Ie given under ibid Sch 1 Pt III para 10 (as amended) (see para 303 post): see reg 28(5) (as substituted: see note 4 supra).

13 Ibid reg 28(5) (as substituted: see note 4 supra). The provision that is set out in the text is expressed to be subject to reg 28A(1) (as added) (see the text and note 18 infra): see reg 28(5) (as so substituted).

14 Ie as mentioned in ibid reg 23(3), (4) (as amended) (see para 298 post): see reg 28(6) (as substituted: see note 4 supra).

15 Ibid reg 28(6) (as substituted: see note 4 supra).

16 Ibid reg 28(6)(a) (as substituted: see note 4 supra).

17 Ibid reg 28(6)(b) (as substituted: see note 4 supra).

18 Ibid reg 28A(1) (as added: see note 4 supra). The Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 21(6) applies with the necessary modifications in relation to an agreement under reg 28A(1) (as added) as it applies to an agreement under reg 21(5) (see para 296 ante): see reg 28A(1) (as so added). The Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 23 (as amended) (see para 298 post) (failure to pay instalments) applies with the necessary modifications in relation to instalments payable in accordance with a joint taxpayers' notice as it applies to instalments payable in accordance with Sch 1 Pt I (as amended) (see para 300 post) or a Part II scheme: reg 28A(2) (as so added). For the meaning of 'Part II scheme' see para 296 note 8 ante.

19 Ibid reg 28A(3) (as added: see note 4 supra).

20 Ibid reg 28A(4) (as added: see note 4 supra).

21 As to the repayment or crediting of any amount or the adjustment of payments due under a notice see para 296 note 7 ante.

22 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 28A(5)(a) (as added: see note 4 supra).

23 Ibid reg 28A(5)(b) (as added: see note 4 supra).

298. Reminder notices. In circumstances where:

(1) a council tax demand notice[1] has been served by a billing authority[2] on a liable person[3];

(2) instalments in respect of the council tax to which the notice relates are payable[4]; and

(3) any such instalment is not so paid[5],

the billing authority must serve a notice ('reminder notice') on the liable person stating[6]:

(a) the amount which is the aggregate of the instalments which are due under the demand notice or any subsequent notice[7] and which are unpaid and the instalments that will become due within the period of seven days beginning with the day on which the reminder notice is issued[8];

(b) that the amount mentioned in head (a) above is required to be paid by him within the period there mentioned[9];

(c) the liability that will be incurred by a failure to pay following the issue of a reminder notice[10] and the amount that will become payable by him in the circumstances[11]; and

(d) where the notice is the second such notice as regards the relevant year, the liability that will be incurred by a failure to pay subsequent instalments[12].

If, within the period of seven days beginning with the day on which a reminder notice is issued, the liable person fails to pay any instalments which are or will become due before the expiry of that period, the unpaid balance of the estimated amount (or, as the case may be, the chargeable amount[13]) becomes payable by him at the expiry of a further period of seven days beginning with the day of the failure[14]. If, after making a payment in accordance with a reminder notice which is the second such notice as regards the relevant year[15], the liable person fails to pay any subsequent instalment as regards that year on or before the day on which it falls due, the unpaid balance of the estimated amount (or, as the case may be, the chargeable amount) becomes payable by him on the day following the day of the failure[16].

1 For the meaning of 'demand notice' see para 292 note 9 ante. As to council tax generally see para 227 et seq ante.

2 As to billing authorities see para 229 ante. As to the service of notices generally see para 280 ante.

3 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 23(1)(a). For the meaning of references to the liable person see para 292 note 3 ante. As to liability to council tax generally see para 231 et seq ante.

4 Ibid reg 23(1)(b) (amended by SI 1997/393). The text refers to instalments payable in accordance with the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 21, Sch 1 Pt I (as amended) (see para 300 post) or, as the case may be, a Part II scheme or a determination under reg 21(7) (see para 296 ante): see reg 23(1)(b) (as so amended). For the meaning of 'Part II scheme' see para 296 note 8 ante.

5 Ibid reg 23(1)(c) (amended by SI 1997/393). The text refers to any such instalment not paid in accordance with the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, Sch 1 (as amended) (see para 300 et seq post) or, as the case may be, the relevant scheme or determination: see reg 23(1)(c) (as so amended).

6 Ibid reg 23(1).

Nothing in reg 23(1) (as amended) requires the service of a reminder notice where all the instalments have fallen due (reg 23(2)(a)) or in the circumstances mentioned in reg 23(3), (4) (as amended) (see the text and notes 13–16 infra) (reg 23(2)(b)).

7 Ie given under ibid Sch 1 para 10 (as amended) (see para 303 post): see reg 23(1)(i) (as substituted: see note 8 infra).

8 Ibid reg 23(1)(i) (reg 23(1)(i)–(iv) substituted by SI 1994/505). As to the day on or time at which a notice is issued see para 292 note 6 ante.

9 Ibid reg 23(1)(ii) (as substituted: see note 8 supra).

10 Ie stating the effect of ibid reg 23(3) (as amended) (see the text and notes 13–14 infra): see reg 23(1)(iii) (as substituted: see note 8 supra).

11 Ibid reg 23(1)(iii) (as substituted: see note 8 supra). The text refers to the circumstances mentioned in reg 23(3) (as amended) (see the text and notes 13–14 infra): see reg 23(1)(iii) (as so substituted)

12 Ibid reg 23(1)(iv) (as substituted: see note 8 supra). Head (d) in the text requires a statement of the effect of reg 23(4) (as amended) (see the text and notes 15–16 infra): see reg 23(1)(iv) (as so substituted).

13 As to references to the chargeable amount for these purposes see para 292 note 3 ante.

14 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 23(3) (amended by SI 1997/393).

15 For the meaning of 'relevant year' for these purposes see para 295 note 6 ante.

16 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 23(4) (amended by SI 1997/393).

299. Final adjustment. In circumstances where:

(1) a notice has been issued by a billing authority[1] under the billing provisions[2] requiring a payment or payments to be made by a person in respect of his liability to pay council tax[3] for a financial year[4] or part of a financial year[5];

(2) the payment or payments required to be made are found to be in excess of or less than his liability for the year or the part[6]; and

(3) provision for adjusting the amounts required under the notice and (as appropriate) for the making of additional payments or the repaying or crediting of any amount[7] overpaid is not made by any other of the billing provisions, or by any other provision of the Local Government Finance Act 1992[8] or by any other provision of any agreement[9],

the billing authority must as soon as practicable after the expiry of the year or the part of a year serve a further notice on the person stating the amount of his liability for the year or the part, and adjusting (by reference to that amount) the amounts required to be paid under the notice referred to in head (1) above[10]. If the amount stated in the further notice is greater than the amount required to be paid under the notice referred to in head (1) above, the amount of the difference for which such other provision as is mentioned in head (3) above is not made is due from the person to the billing authority on the expiry of such period (being not less than 14 days) after the day of issue of the notice[11] as is specified in it[12]. If there has been an overpayment, the amount overpaid for which such other provision as is mentioned in head (3) above is not made[13]: (a) must be repaid if the person so requires[14]; or (b) in any other case, must (as the billing authority determines) either be repaid or be credited against any subsequent liability of the person to make a payment in respect of any council tax of the authority[15].

1 As to billing authorities see para 229 ante. As to the service of notices generally see para 280 ante.

2 Ie under the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, Pt V (regs 17–31) (as amended) (see paras 292 et seq ante, 300 et seq post): see reg 31(1)(a).

3 As to council tax see para 227 et seq ante; and as to liability to council tax generally see para 231 et seq ante.

4 For the meaning of 'financial year' under the Local Government Finance Act 1992 see para 231 note 1 ante.

5 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 31(1)(a).

6 Ibid reg 31(1)(b).

7 As to the repayment or crediting of any amount or the adjustment of payments due under a notice see para 296 note 7 ante.

8 Ie under the provisions governing liability to council tax generally (see para 231 et seq ante).

9 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 31(1)(c). The text refers to an agreement entered into under reg 21(5) (see para 296 ante): see reg 31(1)(c).

10 Ibid reg 31(2).

11 As to the day on or time at which a notice is issued see para 292 note 6 ante.

12 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 31(3).

13 Ibid reg 31(4).

14 Ibid reg 31(4)(a).

15 Ibid reg 31(4)(b).

(iv) Payment

300. Payment of the aggregate amount: monthly instalments. Where the council tax demand notice[1] is issued on or before 31 December[2] in the relevant year[3], the aggregate amount[4] is payable in monthly instalments[5]. The number of such instalments[6]:

(1) where the notice is issued before the beginning of the relevant year or at any time in the period beginning on the first day of that year and ending on 30 April of that year, must be ten[7];

(2) where the notice is issued on or after 1 May in the relevant year, must be one less than the number of whole months remaining in the relevant year after the issue of the notice[8].

The months in which the instalments are payable must be uninterrupted, but subject to that are to be such months in the relevant year as are specified in the notice; and the instalments are to be payable on such day in each month as is so specified[9]. If the aggregate amount divided by the number of instalments gives an amount which is a multiple of a pound, the instalments must be of that amount[10]. If the aggregate amount so divided would not give such an amount, all but the first instalment must be of an amount equal to A and the first instalment must be of an amount equal to B, where A is equal to C divided by D, rounded up or down (as the case may be) to the nearest pound; and B is equal to:

$$C - ((D - 1) \times A)$$

where C is equal to the aggregate amount; and D is equal to the number of instalments to be paid[11]. If the calculation of instalments in accordance with these formulae would produce an amount for an instalment of less than £5, the demand notice may require that the amount which[12] would be the second instalment must be added to the amount which[13] would be the first instalment, and the number of instalments must be reduced by one[14].

If amounts so calculated would produce an amount for an instalment of less than £5[15], the demand notice may require the aggregate amount to be paid[16]:

(a) where the aggregate amount is less than £10, in a single instalment payable on such day as is specified in the notice[17]; or

(b) where the aggregate amount is equal to or greater than £10, by a number of monthly instalments equal to the greatest whole number by which £5 can be multiplied to give a product which is less than or equal to the aggregate amount[18].

Where the demand notice is issued between 1 January and 31 March in the relevant year, the aggregate amount is to be payable in a single instalment on such day as is specified in the notice[19]. The demand notice must be issued at least 14 days before the day on which the first instalment is due under it[20].

1 For the meaning of 'demand notice' see para 292 note 9 ante. As to council tax generally see para 227 et seq ante.

2 As to the day on or time at which a notice is issued see para 292 note 6 ante.

3 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 21, Sch 1 para 2(1). For the meaning of 'relevant year' for these purposes see para 295 note 6 ante. Schedule 1 para 2 (as amended) has effect subject to Sch 1 para 3 (as amended) (see the text and notes 15–18 infra): see Sch 1 para 2(1).

The Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, Sch 1 Pt I (paras 1–5) (as amended) does not apply where, as regards the relevant year, instalments are payable in accordance with a Part II scheme: Sch 1 para 1. For the meaning of 'Part II scheme' see para 296 note 8 ante.

4 For these purposes, 'aggregate amount' means the amount referred to in ibid reg 20(2) (see para 296 ante): Sch 1 para 5. See note 3 supra.
5 Ibid Sch 1 para 2(2). See note 3 supra.
6 Ibid Sch 1 para 2(3) (amended by SI 1995/22). The Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, Sch 1 para 2(3) (as amended) is subject to Sch 1 para 2(7) (as added) (see the text and notes 12–14 infra): see Sch 1 para 2(3) (as so amended). See note 3 supra.
7 Ibid Sch 1 para 2(3)(a) (Sch 1 para 2(3)(a), (b) amended by SI 1992/3008). See note 3 supra.
8 Ibid Sch 1 para 2(3)(b) (as amended: see note 7 supra). See note 3 supra.
9 Ibid Sch 1 para 2(4). See note 3 supra.
10 Ibid Sch 1 para 2(5). See note 3 supra.
11 Ibid Sch 1 para 2(6). See note 3 supra.
12 Ie but for ibid Sch 1 para 2(7) (as added): see Sch 1 para 2(7) (as added: see note 14 infra).
13 See note 12 supra.
14 Ibid Sch 1 para 2(7) (added by SI 1995/22). See note 3 supra.
15 Ie notwithstanding any adjustment of instalments made in accordance with the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, Sch 1 para 2(7) (as added) (see the text and notes 12–14 supra): see Sch 1 para 3(1) (as amended: see note 16 infra).
16 Ibid Sch 1 para 3(1) (amended by SI 1995/22). See note 3 supra.
17 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, Sch 1 para 3(1)(a). See note 3 supra.
18 Ibid Sch 1 para 3(1)(b). The months in which the instalments under Sch 1 para 3(1)(b) are payable must be uninterrupted but subject to that are to be such of the months in which, but for Sch 1 para 3 (as amended), the instalments would have been payable under Sch 1 para 2 (as amended) (see the text and notes 1–14 supra) as are specified in the demand notice; and the instalments are to be payable on such day in each month as is so specified: Sch 1 para 3(2). Schedule 1 para 2(5)–(7) (Sch 1 para 2(7) as added) (see the text and notes 10–14 supra) applies to instalments under Sch 1 para 3(1)(b) (as amended) as it applies to instalments under Sch 1 para 2 (as amended): Sch 1 para 3(3) (amended by SI 1995/22). See note 3 supra.
19 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, Sch 1 para 4. See note 3 supra.
20 Ibid Sch 1 para 4A (added by SI 1992/3008). See note 3 supra.

301. Payment of the aggregate amount: authorities' instalment schemes. Where the council tax demand notice[1] is issued before or during the relevant year[2], a scheme made by a billing authority[3] for the payment by instalments of the aggregate amount[4] must be expressed to have effect for all financial years[5] commencing with the financial year for which it first has effect unless varied or revoked[6]. The scheme must provide:

(1) that no variation may affect the operation of the scheme as regards a particular financial year unless the variation is made before the day on which the authority first sets an amount for the year[7]; and
(2) that it may not be revoked later than 31 December immediately preceding the financial year from which it is desired that it should cease to have effect[8].

The scheme must provide for its application as regards chargeable dwellings[9] in the authority's area in respect of which the aggregate amount as regards the dwelling and the relevant year falls or, in the opinion of the authority, will fall to be paid by a person by whom an amount by way of rent for that dwelling for periods in that year is or, in the opinion of the authority, will be payable to the authority[10]. The scheme may provide for its continued application, as regards any period in the relevant year in respect of which rent is not so payable where such period follows a period in respect of which rent is so payable[11]. The scheme must provide:

(a) for the aggregate amount to be payable in instalments[12];
(b) subject to head (c) below, for the number of instalments to be not less than ten nor more than 52[13];
(c) for the first instalment to be required to be paid no earlier than 14 days after the day on which the demand notice was issued and for the last instalment to be

required to be paid before the end of the relevant year but, subject to that, for instalments to be payable on such day in each interval as is specified in the scheme[14];

(d) for the determination of the amount of any instalment where the aggregate amount divided by the number of instalments does not give an amount which is a multiple of ten pence[15].

1 For the meaning of 'demand notice' see para 292 note 9 ante. As to council tax generally see para 227 et seq ante.

2 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 21, Sch 1 para 6(1). For the meaning of 'relevant year' for these purposes see para 295 note 6 ante. As to the day on or time at which a notice is issued see para 292 note 6 ante.

The Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, Sch 1 Pt II (paras 6–8) (as amended) applies where the council tax demand notice is issued before or during the relevant year (see Sch 1 para 6(1)) except where, as regards the relevant year, instalments are payable under Sch 1 Pt I (paras 1–5) (as amended) (see para 300 ante) (Sch 1 para 6(2)).

3 As to billing authorities see para 229 ante.

4 For these purposes, 'aggregate amount' means the amount referred to in the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 20(2) (see para 296 ante): Sch 1 para 6(3). A scheme made by a billing authority for the payment by instalments of the aggregate amount must comply with Pt III para 8 (as amended) (see the text and notes 5–15 infra): Sch 1 para 7. See note 2 supra.

5 For the meaning of 'financial year' under the Local Government Finance Act 1992 see para 231 note 1 ante.

6 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, Sch 1 para 8(1).

7 Ibid Sch 1 para 8(2)(a). The text refers to an amount set for the year under the Local Government Finance Act 1992 s 30 (as amended) (see para 260 ante): see the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, Sch 1 para 8(2)(a).

8 Ibid Sch 1 para 8(2)(b).

9 For the meaning of 'chargeable dwelling' under the Local Government Finance Act 1992 see para 233 ante; and for the meaning of 'dwelling' for those purposes see para 232 ante.

10 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, Sch 1 para 8(3).

11 Ibid Sch 1 para 8(4). Schedule 1 para 8(4) is without prejudice to reg 21(5) (see para 296 ante): see Sch 1 para 8(4).

12 Ibid Sch 1 para 8(5)(a).

13 Ibid Sch 1 para 8(5)(b).

14 Ibid Sch 1 para 8(5)(c) (amended by SI 1992/3008).

15 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, Sch 1 para 8(5)(d). The scheme must provide that where instalments fall to be adjusted in the circumstances mentioned in Sch 1 Pt III para 10 (as amended) (see para 303 post), the remaining instalments mentioned in Sch 1 Pt III para 10(2) (see para 303 post) are to be calculated as if references in Sch 1 Pt II (as amended) to the aggregate amount and to instalments were references to the aggregate amount of the remaining instalments and to the remaining instalments respectively: Sch 1 para 8(6). As to the repayment or crediting of any amount or the adjustment of payments due under a notice see para 296 note 7 ante.

302. Cessation of instalments. Where the council tax demand notice[1] has been served on a liable person[2] by a billing authority[3] and after its issue the person ceases to be the liable person in respect of the chargeable dwelling[4] and the period to which the notice relates[5], no payments of instalments falling due after the relevant day[6] are payable under the notice[7].

The billing authority must on the relevant day or as soon as practicable after that day serve a notice on the liable person stating the amount of his liability in respect of the council tax to which the demand notice relates as it has effect for the period in the relevant year[8] up to the day on which he ceased to be so liable[9]. If the amount so stated is less than the aggregate amount of any instalments which have fallen due on or before the relevant day, the difference must go in the first instance to discharge any liability to pay the instalments (to the extent that they remain unpaid)[10]; and any residual overpayment must be repaid[11] if the liable person so requires[12]; or, in any other case, any residual overpayment must (as the billing authority determines) either be repaid or be

credited against any subsequent liability of the person to make a payment in respect of any council tax of the authority[13]. However, if the amount so stated is greater than the aggregate amount of any instalments which have fallen due on or before the relevant day, the difference between the two is due from the liable person to the billing authority on the expiry of such period (being not less than 14 days) after the day of issue of the notice so served[14] as is specified in it[15].

If, after the issue of a demand notice, a person ceases to be the liable person in respect of the chargeable dwelling and the period to which the notice relates[16] and if, after the person ceases to be liable to pay an amount in respect of council tax for the relevant year, he again becomes liable to make such a payment, a further notice must be served on the liable person requiring payments in respect of the council tax as it has effect for the period in the year after he becomes so liable[17].

1 For the meaning of 'demand notice' see para 292 note 9 ante. As to council tax generally see para 227 et seq ante.
2 For the meaning of references to the liable person see para 292 note 3 ante. As to liability to council tax generally see para 231 et seq ante. As to the service or giving of notices generally see para 280 ante.
3 As to billing authorities see para 229 ante.
4 For the meaning of 'chargeable dwelling' under the Local Government Finance Act 1992 see para 233 ante; and for the meaning of 'dwelling' for those purposes see para 232 ante.
5 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 21, Sch 1 para 9(1).
6 For these purposes, 'relevant day' means the day on which the person ceases to be liable to make payments in respect of council tax: ibid Sch 1 para 9(7).
7 Ibid Sch 1 para 9(2). Schedule 1 para 9(2) is subject to Sch 1 para 9(5), (6) (see the text and notes 14–17 infra): see Sch 1 para 9(2).
8 For the meaning of 'relevant year' for these purposes see para 295 note 6 ante.
9 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, Sch 1 para 9(3).
10 Ibid Sch 1 para 9(4).
11 As to the repayment or crediting of any amount or the adjustment of payments due under a notice see para 296 note 7 ante.
12 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, Sch 1 para 9(4)(a).
13 Ibid Sch 1 para 9(4)(b).
14 Ie the notice served under ibid Sch 1 para 9(3) (see the text and notes 8–9 supra): see Sch 1 para 9(5). As to the day on or time at which a notice is issued see para 292 note 6 ante.
15 Ibid Sch 1 para 9(5).
16 Ie if ibid Sch 1 para 9 applies: see Sch 1 para 9(6).
17 Ibid Sch 1 para 9(6). Regulations 19–23 (as amended) (see para 295 et seq ante) (and, so far as applicable, Sch 1 (as amended)) apply to the further notice with respect to that period and the sums payable by the liable person with respect to that period, as if it were a different demand notice: see Sch 1 para 9(6).

303. Adjustment of instalments. Where the council demand notice[1] has been served on a liable person[2] by a billing authority[3], and after its issue the person continues to be the liable person in respect of the chargeable dwelling[4] and the period to which the notice relates[5], but it comes to the attention of the authority that one or more of the following events has occurred[6]:

(1) the notice was so served by reference to an amount set by the billing authority for the relevant year[7] and after the issue of the notice the authority sets a different amount in substitution for that amount[8];

(2) the notice was so served on the assumption that, as regards any day in the period to which the notice relates, the dwelling concerned would be or was a chargeable dwelling and the dwelling was not or has ceased to be a chargeable dwelling as regards any day in that period[9];

(3) the notice was so served on the assumption that, as regards any day in the period to which the notice relates, the dwelling concerned would be or was in a particular valuation band and the dwelling was not or has ceased to be in that band as regards any day in that period[10];

(4) the notice was so served on the assumption that, as regards any day in the period to which the notice relates, the person would be or was entitled to a discount and he was not or has ceased to be so entitled or was or is entitled to a discount of a smaller amount than had been assumed[11];

(5) the notice was so served on the assumption that, as regards any day in the period to which the notice relates, the person was not or would not be entitled to a discount and he was or is so entitled[12];

(6) the notice was so served on the assumption that, as regards any day in the period to which the notice relates, the person was or would be liable to pay an amount in respect of council tax and, by virtue of regulations under the Local Government Finance Act 1992[13], he was or is liable to pay a greater or lesser amount than the amount stated in the notice[14];

(7) the notice was so served on the assumption that, as regards any day in the period to which the notice relates, the person was or would be entitled to a reduction in the amount he is liable to pay in respect of council tax under regulations made under the Social Security Administration Act 1992[15], and he was or is allowed a larger or smaller reduction than had been so assumed[16];

(8) the notice was so served on the assumption that, as regards any day in the period to which the notice relates, the person was not or would not be entitled to such a reduction as is mentioned in head (7) above, and he was or is so entitled[17],

the billing authority must on or as soon as practicable after the relevant day[18]:

(a) adjust the instalments (if any) payable on or after the adjustment day[19] (the 'remaining instalments') in accordance with the amounts and aggregate amount specified for the remaining instalments[20]; and

(b) serve a notice on the liable person which is to state: (i) the amount of the revised estimate[21]; and (ii) the amount of any remaining instalments[22].

If the revised estimate referred to in head (b)(i) above exceeds the aggregate amount of the instalments payable under the demand notice before the adjustment day, but no instalments are payable under it on or after that day, the amount of the excess is due from the liable person to the billing authority in a single instalment on the expiry of such period (being not less than 14 days) after the day of issue of the notice so served as is specified in it[23]; and if in any case the revised estimate is less than the aggregate amount of the instalments payable before the adjustment day, any overpayment[24]:

(A) must be repaid[25] if the liable person so requires[26]; or

(B) in any other case, must (as the billing authority determines) either be repaid or be credited against any subsequent liability of the person to make a payment in respect of any council tax of the authority[27].

More than one adjustment of amounts paid or payable under a demand notice may be so made as the circumstances require[28].

1 For the meaning of 'demand notice' see para 292 note 9 ante. As to council tax generally see para 227 et seq ante.

2 For the meaning of references to the liable person see para 292 note 3 ante. As to liability to council tax generally see para 231 et seq ante. As to the service or giving of notices generally see para 280 ante.

3 As to billing authorities see para 229 ante.

4 For the meaning of 'chargeable dwelling' under the Local Government Finance Act 1992 see para 233 ante; and for the meaning of 'dwelling' for those purposes see para 232 ante.

5 Ie where the event mentioned in the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 21, Sch 1 para 9(1) (see para 302 ante) has not occurred in relation to the notice: see Sch 1 para 10(1) (as amended: see note 6 infra).

6 Ibid Sch 1 para 10(1) (amended by SI 1992/3008).

7 For the meaning of 'relevant year' for these purposes see para 295 note 6 ante.

8 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, Sch 1 para 10(1)(a). The text refers to the amount set in substitution under the Local Government Finance Act 1992 s 31 (as amended) (see para 261 ante): see the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, Sch 1 para 10(1)(a).

9 Ibid Sch 1 para 10(1)(b).

10 Ibid Sch 1 para 10(1)(c). As to valuation bands see para 244 ante; and as to valuation lists see para 268 et seq ante.

11 Ibid Sch 1 para 10(1)(d). For the meaning of 'discount' for these purposes see para 290 note 3 ante.

12 Ibid Sch 1 para 10(1)(e).

13 Ie regulations under the Local Government Finance Act 1992 s 13 (as amended) (reduced amounts) (see para 257 ante): see the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, Sch 1 para 10(1)(f).

14 Ibid Sch 1 para 10(1)(f).

15 Ie under the Social Security Administration Act 1992 s 138(1) (as substituted and amended) (see para 386 post): see the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, Sch 1 para 10(1)(g).

16 Ibid Sch 1 para 10(1)(g).

17 Ibid Sch 1 para 10(1)(h) (added by SI 1992/3008).

18 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, Sch 1 para 10(2). For these purposes, 'relevant day' means the day with respect to which the assumption mentioned in Sch 1 para 10(1) (as amended) (see the text and notes 1–6 supra) is wrong or the day the amount set in substitution (see head (1) in the text) is so set: Sch 1 para 10(8).

19 For these purposes, 'adjustment day' means the day 14 days after the day the notice served under ibid Sch 1 para 10(2) is issued: Sch 1 para 10(8).

20 Ibid Sch 1 para 10(2)(a). The text refers to the amounts mentioned in Sch 1 para 10(4) (as amended): see Sch 1 para 10(2)(a). Accordingly, subject to Sch 1 para 10(6A) (as added), the aggregate amount of the remaining instalments payable must be equal to the amount by which the revised estimate mentioned in Sch 1 para 10(3) (see note 21 infra) exceeds the aggregate amount of the instalments payable under the demand notice before the adjustment day; and, where instalments are payable in accordance with Sch 1 Pt I (paras 1–5) (as amended) (see para 300 ante), the amount of each remaining instalment (if there are more than one) must be calculated in accordance with Sch 1 Pt I (as amended), as if references in Sch 1 Pt I (as amended) to the aggregate amount and to instalments were references to the aggregate amount of the remaining instalments and to the remaining instalments respectively: Sch 1 para 10(4) (amended by SI 1995/22). For the purposes of the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, Sch 1 para 10(4) (as amended), the aggregate amount of the remaining instalments payable must be reduced by the amount of any payment to the authority on or after the relevant day and before the adjustment day with respect to an instalment, or part of an instalment, which is payable on or after the adjustment day: Sch 1 para 10(6A) (added by SI 1995/22).

In calculating the aggregate amount of instalments payable under a demand notice before the adjustment day for the purposes of the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, Sch 1 para 10(4), or for the purposes of Sch 1 para 10(5) in consequence of the making of a revised estimate under Sch 1 para 10(3) (see the text and notes 23–27 infra):

(1) there must count as so payable any amount in respect of such instalments which has been treated as paid to the authority under the Local Government Finance Act 1992 s 31(3) (see para 261 ante) or has been credited under s 31(4) (see para 261 ante) or (on the occasion of the making of a previous revised estimate under the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, Sch 1 para 10(3)) under Sch 1 para 10(5) (Sch 1 para 10(6)(a));

(2) there must count as so payable any amount paid to the authority before the relevant day with respect to an instalment, or part of an instalment, which is payable on or after the adjustment day (Sch 1 para 10(6)(aa) (added by SI 1995/22)); and

(3) there must not count as so payable any amount in respect of such instalments which has been repaid under the Local Government Finance Act 1992 s 31 (as amended) (see para 261 ante) or under the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, Sch 1 para 10(5) (Sch 1 para 10(6)(b)).

Where a notice has been given under Sch 1 para 10(2), in the operation of Sch 1 para 10 (as amended) as respects any further notice that may fall to be given under it, references in Sch 1 para 10 (as amended) to the demand notice and to amounts in respect of instalments payable under it must be construed (so far as the context permits) as references to the demand notice, and amounts in respect of instalments payable under the notice, as from time to time previously adjusted under Sch 1 para 10 (as amended): Sch 1 para 10(7).

21 Ibid Sch 1 para 10(2)(b)(i). For these purposes, the revised estimate is the revised estimate of the billing authority of the amount that the person is liable to pay in respect of council tax for the relevant year

made on the assumptions mentioned in reg 20(3) (see para 296 ante) and as if the notice mentioned in reg 20(3) were the notice referred to in Sch 1 para 10(2): Sch 1 para 10(3). See note 20 supra.

22 Ibid Sch 1 para 10(2)(b)(ii). See note 20 supra.

23 Ibid Sch 1 para 10(5). The text refers to the notice served under Sch 1 para 10(2) (see the text and notes 19–22 supra): see Sch 1 para 10(5). See note 20 supra. As to the day on or time at which a notice is issued see para 292 note 6 ante.

24 Ibid Sch 1 para 10(5).

25 As to the repayment or crediting of any amount or the adjustment of payments due under a notice see para 296 note 7 ante.

26 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, Sch 1 para 10(5)(a).

27 Ibid Sch 1 para 10(5)(b).

28 Ibid Sch 1 para 11.

304. Payments: adjustments. If the chargeable amount in respect of council tax[1] proves to be greater than the estimated amount[2], an additional sum equal to the difference between the two is, on the service by the billing authority[3] on the liable person[4] of a notice stating the chargeable amount, due from him to the authority on the expiry of such period (being not less than 14 days) after the day of issue of the notice as is specified in it[5].

If the chargeable amount proves to be less than the estimated amount, the billing authority must notify the liable person in writing of the chargeable amount; and any overpayment of the chargeable amount: (1) must be repaid if the liable person so requires[6]; or (2) in any other case, must (as the billing authority determines) either be repaid or be credited against any subsequent liability of the liable person to make a payment in respect of any council tax[7] of the authority[8].

If any assumption by reference to which the estimated amount was calculated is shown to be false before the chargeable amount is capable of final determination[9], the billing authority may, and if so required by the liable person must, make a calculation of the appropriate amount with a view to adjusting the liable person's liability in respect of the estimated amount and (as appropriate) to[10]:

(a) requiring an interim payment from the liable person if the appropriate amount is greater than the estimated amount[11]; or

(b) making an interim repayment to the liable person if the appropriate amount is less than the amount of the estimated amount paid[12].

On calculating the appropriate amount the billing authority must notify the liable person in writing of it; and a payment required under head (a) above is due from the liable person to the billing authority on the expiry of such period (being not less than 14 days) after the day of issue of the notice as is specified in it[13].

If the chargeable amount or the appropriate amount is less than the estimated amount in consequence of the liable person ceasing during the relevant year to be liable to make the payment to which the estimated amount relates, and he becomes liable, in respect of a different chargeable dwelling, to make a payment to the same billing authority by way of council tax in respect of the same day as that on which he so ceases, the billing authority may require that the amount of any overpayment[14] or any difference mentioned in head (b) above must, instead of being repaid, be credited against his liability in respect of the different dwelling[15].

1 As to references to the chargeable amount for these purposes see para 292 note 3 ante. As to council tax generally see para 227 et seq ante.

2 For these purposes, 'estimated amount' means the amount last estimated under the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 20(2) (see para 296 ante) for the purposes of a demand notice or any subsequent notice given under reg 21, Sch 1 para 10 (as amended) (see para 303 ante) prior to the failure mentioned in reg 23(3) (as amended) (see para 298 ante), save that if in any case an interim adjustment has been made under reg 24(3) (see the text and notes 9–12 infra), it means in relation to the next payment, repayment or interim adjustment in that case under reg 24 (if

any) the appropriate amount by reference to which the previous interim adjustment was so made: reg 24(7). For the meaning of 'demand notice' see para 292 note 9 ante. As to the repayment or crediting of any amount or the adjustment of payments due under a notice see para 296 note 7 ante. See *R (on the Application of Daniels) v Barnet London Borough Council* [2007] EWHC 1885 (Admin), [2007] RVR 300, [2007] All ER (D) 236 (May) (billing authority has power to correct retrospectively the rate of discount allowed in any demand if information provided by the person liable to pay council tax was incorrect). For the purposes of the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 24(3), the 'appropriate amount' is the amount which would be required to be paid under a demand notice if such a notice were issued with respect to the relevant year on the day that the notice under reg 24(5) (see the text and note 13 infra) is issued; and more than one calculation of the appropriate amount and interim adjustment may be made under reg 24(3) according to the circumstances: see reg 24(4), (7). For the meaning of 'relevant year' for these purposes see para 295 note 6 ante. As to the day on or time at which a notice is issued see para 292 note 6 ante.

3 As to billing authorities see para 229 ante. As to the service of notices generally see para 280 ante.

4 For the meaning of references to the liable person see para 292 note 3 ante.

5 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 24(1).

6 Ibid reg 24(2)(a). Head (1) in the text is subject to reg 24(6) (see the text and notes 14–15 infra): see reg 24(2)(a).

7 As to liability to council tax generally see para 231 et seq ante.

8 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 24(2)(b).

9 Ie for the purposes of ibid reg 24(1), (2) (see the text and notes 1–8 supra): see reg 24(3).

10 Ibid reg 24(3). See note 2 supra.

11 Ibid reg 24(3)(a).

12 Ibid reg 24(3)(b). Head (b) in the text is subject to reg 24(6) (see the text and notes 14–15 infra): see reg 24(3)(b).

13 Ibid reg 24(5).

14 Ie mentioned in ibid reg 24(2) (see the text and notes 6–8 supra): see reg 24(6).

15 Ibid reg 24(6).

305. Lump sum payments. A billing authority[1] may, subject to the conditions set out in heads (1) and (2) below, accept an amount payable in respect of council tax[2] in a single lump sum in such cases as it may determine and in satisfaction of any liability of a liable person[3] under a demand notice[4] to pay the estimated amount[5], being a lump sum which is of an amount determined by the authority and less than the estimated amount[6]. The conditions are that:

(1) such determinations as to the cases where a lump sum will be accepted and as to the amount of the sum in those cases must be made by the authority on or before the day on which it first sets an amount for the relevant year[7];

(2) under those determinations persons liable to pay the same number of instalments in the relevant year must be treated alike, and so that in particular the proportion that the amount of the single lump sum to be accepted in relation to a person bears to the estimated amount payable by him must be the same as that applicable to all other persons liable to pay the same number of instalments in the relevant year[8]; and

(3) for a lump sum to be accepted under those determinations as they have effect in any case:

(a) at least two instalments must fall to be paid under the demand notice concerned[9]; and

(b) the single lump sum payment must be made on or before the day on which the first instalment falls due under the notice[10].

Such a determination may be revoked at any time, and if revoked may (but only on or before the day mentioned in head (1) above) be replaced by a fresh determination[11].

If the chargeable amount in respect of council tax[12] proves to be greater than the estimated amount, an additional sum equal to the difference between the two, proportionately reduced[13], is, on the service by the billing authority on the liable person of a notice stating the chargeable amount, due from him to the authority on the expiry

of such period (being not less than 14 days) after the day of issue of the notice as is specified in it[14]. If the chargeable amount proves to be less than the estimated amount, the billing authority must notify the liable person in writing of the chargeable amount; and any overpayment of the chargeable amount[15] must be repaid if the liable person so requires[16] or, in any other case, must (as the billing authority determines) either be repaid or be credited against any subsequent liability of the liable person to make a payment in respect of any council tax of the authority[17].

If any assumption by reference to which the estimated amount was calculated is shown to be false before the chargeable amount is capable of final determination[18], the billing authority may (and, if so required by the liable person, must) make a calculation of the appropriate amount with a view to adjusting the liable person's liability in respect of the estimated amount and (as appropriate) to[19]:

(i) requiring an interim payment from the liable person[20] if the appropriate amount is greater than the estimated amount[21]; or

(ii) making an interim repayment to the liable person[22] if the appropriate amount is less than the amount of the estimated amount paid[23].

On calculating the appropriate amount the billing authority must notify the liable person in writing of it; and a payment required under head (i) above is due from the liable person to the billing authority on the expiry of such period (being not less than 14 days) after the day of issue of the notice as is specified in it[24].

The proportion by reference to which a payment or repayment (or sum to be credited)[25] is to be reduced is to be the proportion determined under head (2) above in respect of the lump sum concerned in that case; but in determining whether there has been an overpayment of the chargeable amount or appropriate amount (and the amount of any sum to be repaid or credited before reduction) one payment of the lump sum must be treated as a payment of the estimated amount in full, and any other proportionately reduced payment or repayment already made must be treated as not having been so reduced[26].

1 As to billing authorities see para 229 ante.

2 As to references under the Local Government Finance Act 1992 to an amount payable in respect of council tax see para 244 note 3 ante; and as to council tax see para 227 et seq ante.

3 For the meaning of references to the liable person see para 292 note 3 ante. As to liability to council tax generally see para 231 et seq ante.

4 Ie to which the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 20(2) (see para 296 ante) applies: see reg 25(1).

5 For these purposes, 'estimated amount' means the amount last estimated under ibid reg 20(2) (see para 296 ante) for the purposes of a demand notice or any subsequent notice given under reg 21, Sch 1 para 10 (as amended) (see para 303 ante) prior to the payment of the single lump sum mentioned in reg 25(1); save that if in any case an interim adjustment has been made under reg 25(6) (see the text and notes 18–23 infra), in relation to the next payment, or interim adjustment in that case under reg 25 (if any), it means (except in reg 25(9) (see the text and notes 25–26 infra)) the appropriate amount by reference to which the previous interim adjustment was so made: reg 25(10). As to the repayment or crediting of any amount or the adjustment of payments due under a notice see para 296 note 7 ante. For the purposes of reg 25(6), the 'appropriate amount' is the amount which would be required to be paid under a demand notice if such a notice were issued with respect to the relevant year on the day that the notice under reg 25(8) (see the text and note 24 infra) is issued; and more than one calculation of the appropriate amount and interim adjustment may be made under reg 25(6) according to the circumstances: reg 25(7), (10). For the meaning of 'relevant year' for these purposes see para 295 note 6 ante. As to the day on or time at which a notice is issued see para 292 note 6 ante.

6 Ibid reg 25(1).

7 Ibid reg 25(2)(a). The text refers to an amount set under the Local Government Finance Act 1992 s 30 (as amended) (see para 260 ante): see the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 25(2)(a).

8 Ibid reg 25(2)(b).

9 Ibid reg 25(2)(c)(i). The text refers to instalments to be paid in accordance with Sch 1 Pt I (as amended) (see para 300 ante), a Part II scheme or any agreement under reg 21(5) (see para 296 note 8 ante): see reg 25(2)(c)(i). For the meaning of 'Part II scheme' see para 296 note 8 ante.
10 Ibid reg 25(2)(c)(ii).
11 Ibid reg 25(3).
12 As to references to the chargeable amount for these purposes see para 292 note 3 ante.
13 Ie in accordance with the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 25(9) (see the text and notes 25–26 infra): see reg 25(4).
14 Ibid reg 25(4). As to the service of notices generally see para 280 ante.
15 Ibid reg 25(5). The text refers to the chargeable amount proportionately reduced in accordance with reg 25(9) (see the text and notes 25–26 infra): see reg 25(5).
16 Ibid reg 25(5)(a).
17 Ibid reg 25(5)(b).
18 Ie for the purposes of ibid reg 25(4), (5) (see the text and notes 12–17 supra): see reg 25(6).
19 Ibid reg 25(6).
20 Ie proportionately reduced in accordance with ibid reg 25(9) (see the text and notes 25–26 infra): see reg 25(6)(a).
21 Ibid reg 25(6)(a).
22 Ie proportionately reduced in accordance with ibid reg 25(9) (see the text and notes 25–26 infra): see reg 25(6)(b).
23 Ibid reg 25(6)(b).
24 Ibid reg 25(8).
25 Ie under ibid reg 25(4)–(6) (see the text and notes 12–23 supra): see reg 25(9).
26 Ibid reg 25(9).

306. Non-cash payments. A billing authority[1] may, subject to the conditions set out in heads (1) and (2) below, accept an amount (the 'discounted amount') in such cases as it may determine and in satisfaction of any liability of a person to pay to it any instalment or other payment due under a notice given under the billing provisions[2], being an amount determined by the authority and less than the amount of the instalment or other payment due[3]. The conditions are that:

(1) the discounted amount is paid to the authority otherwise than by either bank notes[4] or coin[5]; and
(2) the determinations as to the cases where a discounted amount will be accepted and as to the proportion that the amount is to bear to the amount of the instalment or other payment due in those cases must be made by the authority on or before the day on which it first sets an amount for the relevant year[6].

Such a determination may be revoked at any time, and if revoked may (but only on or before the day mentioned in head (2) above) be replaced by a fresh determination[7].

For the purpose of determining whether an adjustment of any amount paid (whether by way of repayment[8], crediting or otherwise) falls to be made under the billing provisions[9] where a discounted amount has been accepted, the instalment or other payment by reference to which the discounted amount was accepted must be treated as having been paid in full; but any amount to be repaid or credited against any subsequent liability in any case must, in so far as it is attributable to such an instalment or other payment, be reduced in accordance with the proportion determined under head (2) above in respect of that case[10].

1 As to billing authorities see para 229 ante.
2 Ie the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, Pt V (regs 17–31) (as amended) (see paras 292 et seq ante, 309 post): see reg 26(1). As to the service or giving of notices generally see para 280 ante.
3 Ibid reg 26(1).
4 Ie within the meaning of the Currency and Bank Notes Act 1954 (see BANKING vol 3(1) (2005 Reissue) paras 106–107): see the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 26(2)(a).
5 Ibid reg 26(2)(a).

6 Ibid reg 26(2)(b). The text refers to an amount set for the relevant year under the Local Government Finance Act 1992 s 30 (as amended) (see para 260 ante): see the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 26(2)(b). For the meaning of 'relevant year' for these purposes see para 295 note 6 ante.

7 Ibid reg 26(3). The power to revoke under reg 26(3) has effect in any case subject to any agreement to the contrary between the billing authority and the person liable to pay the instalment or other payment concerned: reg 26(5). As to agreements see para 296 ante.

8 As to the repayment or crediting of any amount or the adjustment of payments due under a notice see para 296 note 7 ante.

9 Ie under the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, Pt V (as amended) (see paras 292 et seq ante, 309 post): see reg 26(4).

10 Ibid reg 26(4). Regulation 26(4) has effect in any case subject to any agreement to the contrary between the billing authority and the person liable to pay the instalment or other payment concerned: reg 26(5).

307. Outstanding liabilities on death. Where a person dies and at any time before his death:

(1) he was (or is alleged to have been) liable to pay council tax[1] under the Local Government Finance Act 1992[2]; or

(2) he was (or is alleged to have been) so liable, as spouse or civil partner[3]; or

(3) a penalty was imposed on him[4];

and where:

(a) before the deceased's death a sum has become payable by him under the billing provisions[5] or by way of relevant costs[6] in respect of one of the matters mentioned in heads (1) to (3) above but has not been paid[7]; or

(b) after the deceased's death a sum would, but for his death (and whether or not on the service of a notice), become payable by him under the billing provisions[8] in respect of one of those matters[9],

his executor or administrator is, and to the extent that it is not in excess of the deceased's liability under the Local Government Finance Act 1992 (including relevant costs payable by him) in respect of the matter, liable to pay the sum and may deduct out of the assets and effects of the deceased any payments made (or to be made)[10].

Where before the deceased's death a sum in excess of his liability under the Local Government Finance Act 1992 (including relevant costs payable by him) in respect of one of the matters mentioned in heads (1) to (3) above has been paid (whether the excess arises because of his death or otherwise) and has not been repaid or credited under the billing provisions[11], his executor or administrator is entitled to the sum[12].

In so far as is relevant to his liability in the administration of the deceased's estate, the executor or administrator may institute, continue or withdraw proceedings (whether by way of appeal under the Local Government Finance Act 1992[13] or otherwise)[14].

1 For the meaning of references to the liable person see para 292 note 3 ante. As to council tax generally see para 227 et seq ante; and as to liability to council tax generally see para 231 et seq ante.

2 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 58(1)(a). The text refers to liability under the Local Government Finance Act 1992 s 6 (as amended) (see para 237 ante), s 7 (see para 238 ante) or s 8 (see para 239 ante): see the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 58(1)(a).

3 Ibid reg 58(1)(b) (amended in relation to England by SI 2005/2866; and in relation to Wales by SI 2005/3302). The text refers to liability under the Local Government Finance Act 1992 s 9 (as amended) (see para 240 ante): see the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 58(1)(b) (as so amended).

4 Ibid reg 58(1)(c). The text refers to a penalty imposed under the Local Government Finance Act 1992 s 14(2), Sch 3 para 1(1)–(3) (see para 308 post): see the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 58(1)(c).

5 Ie under ibid Pt V (regs 17–31) (as amended) (see paras 292 et seq ante, 309 post): see reg 58(2)(a).

6 Costs are relevant costs for these purposes if:

(1) an order or warrant (as the case may be) was made by the court in respect of them before the deceased's death under ibid reg 34(7)(b) or reg 34(8) (see para 315 post), reg 36A(5)(b) (as added)

(see para 323 post), reg 47(4)(b) (see para 339 note 10 post) or reg 50(3)(c)(ii) (as substituted) (see para 321 post) (reg 58(5)(a) (amended in relation to England by SI 2005/2866)); or

(2) they are charges connected with distress which may be recovered pursuant to the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 45(2)(b) (see para 335 post) (reg 58(5)(b)).

7 Ibid reg 58(2)(a).

8 Ie under ibid Pt V (as amended) (see paras 292 et seq ante, 309 post): see reg 58(2)(b).

9 Ibid reg 58(2)(b). As to the service or giving of notices generally see para 280 ante.

10 Ibid reg 58(2). Where reg 58(2)(b) applies (see head (b) in the text), the liability of the executor or administrator does not arise until the service on him of a notice requiring payment of the sum: reg 58(3).

A sum payable under reg 58(2) is enforceable in the administration of the deceased's estate as a debt of the deceased and accordingly:

(1) no liability order need be applied for in respect of it after the deceased's death under reg 34 (see para 315 post) (reg 58(6)(a)); and

(2) the liability of the executor or administrator is a liability in his capacity as such (reg 58(6)(b)).

11 Ie under ibid Pt V (as amended) (see paras 292 et seq ante, 309 post): see reg 58(4).

12 Ibid reg 58(4).

13 Ie under the Local Government Finance Act 1992 s 16: see the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 58(8).

14 Ibid reg 58(8). Regulation 57(1) (as amended) (see para 346 post) applies to proceedings to enforce a liability arising under reg 58 (as amended) as it applies to proceedings under Pt VI (regs 32–57) (as amended) (see para 311 et seq post): reg 58(7).

(6) PENALTIES

308. Imposition of penalties. Where a person is requested by a billing authority[1] to supply information[2] under any provision included in certain regulations made for the purposes of administering the council tax[3], the authority may impose a penalty of £50 on him[4]:

(1) if he fails to supply the information in accordance with the provision[5]; or

(2) if, in purported compliance with the provision, he knowingly supplies information which is inaccurate in a material particular[6].

Where a penalty has been so imposed on a person and he is requested by the authority again to supply the same information under the same provision, the authority may impose a further penalty of £200 on him[7]:

(a) if he fails to supply the information in accordance with the provision[8]; or

(b) if, in purported compliance with the provision, he knowingly supplies information which is inaccurate in a material particular[9].

The power to impose further penalties applies each time the authority repeats a request[10].

In any case where a person is required by any provision included in certain regulations made for the purposes of administering the council tax[11] to notify a billing authority[12], and he fails without reasonable excuse to notify the authority in accordance with the provision[13], the authority may impose a penalty of £50 on him[14].

Any such penalty[15] must be paid to the authority imposing it[16]; and an authority may quash any such penalty imposed by it[17]. A person may appeal to a valuation tribunal[18] if he is aggrieved by the imposition on him of such a penalty[19]. Where a penalty is so imposed on a person, and he alleges that there is no power in the case concerned to impose a penalty of the amount imposed, he may appeal against the imposition[20]. Where a person is convicted of an offence, the conduct by reason of which he is convicted does not also allow a penalty to be so imposed[21].

The Secretary of State (or the Welsh Ministers, as the case may be)[22] may make regulations containing provision as to the collection of amounts so payable as penalties[23]. The regulations may include:

(i) provision for the collection of such amounts (including provision about

instalments and notices) which is equivalent to that made in other regulations[24] for the collection of amounts persons are liable to pay in respect of council tax subject to any modifications the Secretary of State (or the Welsh Ministers, as the case may be) thinks fit[25];

(ii) provision that, where the imposition of a penalty is subject to an appeal[26], no amount is to be payable in respect of the penalty while the appeal is outstanding[27];

(iii) rules for ascertaining whether an imposition is subject to an appeal, and whether an appeal is outstanding; and the regulations may treat an appeal as outstanding unless it is finally disposed of or abandoned or fails for non-prosecution[28];

(iv) provisions dealing with any case where such a penalty is quashed or revoked, and may in particular provide for the repayment of an amount or the allowance of an amount by way of deduction against a sum due[29].

If it appears to the Treasury[30] that there has been a change in the value of money since the passing of the Local Government Finance Act 1992[31] or (as the case may be) the last occasion when the power to vary penalties[32] was exercised, it may by order substitute for any sum for the time being specified such other sum as appears to it to be justified by the change[33]. Such an order must not apply in relation to any failure which began or anything done before the date on which the order comes into force[34].

1 As to billing authorities see para 229 ante.
2 As to the meaning of 'information' see para 228 note 23 ante.
3 Ie in regulations under the Local Government Finance Act 1992 s 14(1), Sch 2 para 2, 3, 9 or 10(2) (see para 279 ante): see s 14(2), Sch 3 para 1(1). As to the regulations so made see para 279 note 2 ante. As to council tax generally see para 227 et seq ante.
4 Ibid Sch 3 para 1(1).
5 Ibid Sch 3 para 1(1)(a).
6 Ibid Sch 3 para 1(1)(b).
7 Ibid Sch 3 para 1(3).
8 Ibid Sch 3 para 1(3)(a).
9 Ibid Sch 3 para 1(3)(b).
10 Ibid Sch 3 para 1(4).
11 Ie in regulations under ibid Sch 2 para 4, 5, 9 or 10(2) (see para 279 ante): see Sch 3 para 1(2)(a).
12 Ibid Sch 3 para 1(2)(a).
13 Ibid Sch 3 para 1(2)(b).
14 Ibid Sch 3 para 1(2).
15 Ie a penalty under ibid Sch 3 para 1: see Sch 3 para 1(5).
16 Ibid Sch 3 para 1(5).
17 Ibid Sch 3 para 1(6).
18 As to valuation tribunals generally see para 147 et seq ante; and in relation to council tax see para 351 et seq post.
19 Local Government Finance Act 1992 Sch 3 para 3(1). As to persons aggrieved see ADMINISTRATIVE LAW vol 1(1) (2001 Reissue) para 56.
20 Ibid Sch 3 para 3(3).
21 Ibid Sch 3 para 4.
22 As to the Secretary of State and the Welsh Ministers see para 228 ante.
23 Local Government Finance Act 1992 Sch 3 para 6(1). As to the making of regulations under the Local Government Finance Act 1992 generally see para 228 ante. In exercise of the power so conferred, the following regulations have been made under Sch 2 para 6: see the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613 (amended by the Statute Law (Repeals) Act 1995 s 1(1), Sch 1 Pt VI; SI 1992/1741; SI 1992/3008; SI 1993/196; SI 1993/773; SI 1994/505; SI 1995/22; SI 1996/675; SI 1996/1880; SI 1996/2405; SI 1997/393; SI 1998/295; SI 1999/534; SI 2000/2026; and in relation to England by SI 2001/362; SI 2001/2237; SI 2003/768; SI 2003/2211; SI 2003/2604; SI 2004/927; SI 2005/617; SI 2005/2866; SI 2006/237; SI 2006/3395; SI 2007/501; in relation to Wales by SI 2001/1076; SI 2002/808; SI 2003/522; SI 2003/1715; SI 2004/785; SI 2004/1013; SI 2005/3302; SI 2007/582); the Council Tax (Demand Notices) (Wales) Regulations 1993, SI 1993/255 (amended by SI 1995/160; SI 1996/310; SI 1996/1880; SI 1997/357; SI 1998/267; SI 1999/348; SI 2000/501; SI 2004/460; SI 2004/3143; SI 2006/217); and the Council Tax and Non-Domestic Rating (Demand

Notices) (England) Regulations 2003, SI 2003/2613 (amended by SI 2003/3081; SI 2004/3389; SI 2006/217, SI 2006/492, and in relation to England by SI 2006/3395); and see para 309 et seq post.

24 Ie under the Local Government Finance Act 1992 Sch 2 paras 2, 3 (see para 279 ante): see Sch 3 para 6(2).

25 Ibid Sch 3 para 6(2). See note 23 supra.

26 In the application of ibid Sch 3 para 6 (as amended in relation to Scotland) to England and Wales, any reference to an appeal includes a reference to an arbitration in pursuance of regulations made under the Local Government Finance Act 1988 Act s 136, Sch 11 para 4 (see para 147 note 6 ante): Local Government Finance Act 1992 Sch 3 para 6(6). As to arbitration see paras 164 ante, 369 post.

27 Ibid Sch 3 para 6(3). See note 23 supra.

28 Ibid Sch 3 para 6(4). See note 23 supra.

29 Ibid Sch 3 para 6(5). See note 23 supra.

30 As to the Treasury see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) paras 512–517.

31 The Local Government Finance Act 1992 received the Royal Assent on 6 March 1992.

32 Ie the power conferred by ibid Sch 3 para 5(1): see Sch 3 para 5(1).

33 Ibid Sch 3 para 5(1). At the date at which this volume states the law, no such order had been made. The Treasury power to vary penalties under Sch 3 para 5(1) is not transferred to the Welsh Ministers: see para 228 ante.

34 Ibid Sch 3 para 5(2).

309. Collection of penalties. Where a penalty is payable by a person to a billing authority[1] it may be collected, as the authority to which it is payable determines[2], either:

(1) by treating the penalty[3] as if it were part of the amount that the person is or will be liable to pay in respect of council tax[4] as regards any demand notice[5] after the penalty is imposed[6]; or

(2) by the service by the authority on the person of a notice requiring payment of the penalty on the expiry of such period (being not less than 14 days) after the issue of the notice[7] as is specified in it[8].

Where the imposition of a penalty is subject to an appeal or arbitration, no amount is payable in respect of the penalty while the appeal or arbitration is outstanding[9]. The imposition of a penalty is to be treated[10] as subject to an appeal or arbitration until such time as the matter is finally disposed of[11] or is abandoned or fails for non-prosecution; and the circumstances in which an appeal is to be treated as failing for non-prosecution include the expiry of any time prescribed[12] in consequence of which any such appeal would be required to be dismissed by a valuation tribunal[13]. A demand notice making provision for the recovery of a penalty which is subject to appeal or arbitration may not be issued under head (1) above during the period that the appeal or arbitration concerned is outstanding; and where a penalty becomes subject to appeal or arbitration after the issue of a demand notice which makes such provision, such proportion of the instalments due under it as are attributable to the penalty must not fall due until the appeal or arbitration is finally disposed of, abandoned or fails for non-prosecution[14].

Where an amount has been paid by a person in respect of a penalty which is quashed by the authority[15] or pursuant to the order of a valuation tribunal or the High Court[16], the billing authority which imposed the penalty may allow the amount to him by way of deduction against any other sum which has become due from him under the billing provisions[17] (whether in respect of another penalty or otherwise); and any balance must be repaid[18] to him[19].

1 Ie under the Local Government Finance Act 1992 s 14(2), Sch 3 para 1(1)–(3) (see para 308 ante): see the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 29(1). As to billing authorities see para 229 ante.

2 Ibid reg 29(1). Regulation 29(1) is expressed to be subject to reg 29(2)–(4) (see the text and notes 9–14 infra): see reg 29(1).

3 Ie for the purposes of ibid regs 20, 21 (see para 296 ante) and Sch 1 (as amended) (council tax instalment schemes) (see para 300 et seq ante): see reg 29(1)(a).

4 For the meaning of references to the liable person see para 292 note 3 ante. As to references under the Local Government Finance Act 1992 to an amount payable in respect of council tax see para 244 note 3 ante. As to council tax generally see para 227 et seq ante; and as to liability to council tax generally see para 231 et seq ante.
5 Ie issued pursuant to the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 20(2) (see para 296 ante): see reg 29(1)(a). As to the service or giving of notices generally see para 280 ante.
6 Ibid reg 29(1)(a).
7 As to the day on or time at which a notice is issued see para 292 note 6 ante.
8 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 29(1)(b).
9 Ibid reg 29(2).
10 Ie for the purposes of ibid reg 27 (as substituted) (see para 292 ante) and reg 29: see reg 29(3).
11 Ie in accordance with regulations under the Local Government Finance Act 1988 s 136, Sch 11 para 4 (see para 147 ante): see the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 29(3). As to appeals and arbitration see paras 151 et seq ante, 353 et seq post.
12 Ie prescribed under the Local Government Finance Act 1988 Sch 11 para 8(2)(a) (see para 147 ante): see the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 29(3).
13 Ibid reg 29(3).
14 Ibid reg 29(4).
15 Ie under the Local Government Finance Act 1992 Sch 3 para 1(6) (see para 308 ante): see the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 29(5).
16 As to such orders see para 366 et seq post.
17 Ie under the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, Pt V (regs 17–31) (as amended) (see para 292 et seq ante): see reg 29(5).
18 As to the repayment or crediting of any amount or the adjustment of payments due under a notice see para 296 note 7 ante.
19 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 29(5).

(7) RECOVERY OF COUNCIL TAX

(i) In general

310. Power to make regulations for recovery of sums payable. The Secretary of State (or the Welsh Ministers, as the case may be)[1] may make regulations[2] in relation to the recovery of any sum which has become payable to a billing authority[3] in relation to the council tax[4] and has not been paid[5]. The Secretary of State (or the Welsh Ministers, as the case may be) may also make regulations in relation to the recovery of any sum which has become payable (by way of repayment) to a person other than a billing authority[6] and has not been paid[7].

Regulations for the recovery of sums payable[8] may apply any provision contained in or made under a relevant enactment[9], or may apply any such provision subject to prescribed[10] modifications, or may contain provision equivalent to any such provision (whether or not subject to prescribed modifications)[11].

1 As to the Secretary of State and the Welsh Ministers see para 228 ante.
2 As to the making of regulations under the Local Government Finance Act 1992 generally see para 228 ante. In exercise of the power so conferred, the following regulations have been made under s 14(3), Sch 4 paras 1, 19 (Sch 4 para 1 prospectively amended): see the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613 (amended by the Statute Law (Repeals) Act 1995 s 1(1), Sch 1 Pt VI; SI 1992/1741; SI 1992/3008; SI 1993/196; SI 1993/773; SI 1994/505; SI 1995/22; SI 1996/675; SI 1996/1880; SI 1996/2405; SI 1997/393; SI 1998/295; SI 1999/534; SI 2000/2026; and in relation to England by SI 2001/362; SI 2001/2237; SI 2003/768; SI 2003/2211; SI 2003/2604; SI 2004/927; SI 2005/617; SI 2005/2866; SI 2006/237; SI 2006/3395; SI 2007/501; in relation to Wales by SI 2001/1076; SI 2002/808; SI 2003/522; SI 2003/1715; SI 2004/785; SI 2004/1013; SI 2005/3302; SI 2007/582); the Council Tax (Administration and Enforcement) (Attachment of Earnings Order) (Wales) Regulations 1992, SI 1992/1741 (amended by SI 1996/1880); and the Council Tax (Deduction from Income Support) Regulations 1993, SI 1993/494 (amended by SI 1993/2113; SI 1996/2344; SI 1997/827; SI 1998/563; SI 1999/3178; SI 2002/1397; SI 2002/3019); and see para 311 et seq post.
3 As to billing authorities see para 229 ante.

4 Ie under any provision included in regulations under the Local Government Finance Act 1992 s 14(1), Sch 2 paras 2, 3 or 6(2) or (3) (see para 279 ante) or s 14(2), Sch 3 para 6 (see para 308 ante): see Sch 4 para 1(1). As to council tax generally see para 227 et seq ante; and as to liability to council tax generally see para 231 et seq ante.

5 Ibid Sch 4 para 1(1). As from a day to be appointed under the Tribunals, Courts and Enforcement Act 2007 s 148(5), the Local Government Finance Act 1992 Sch 4 para 1(1) is amended so that the reference to 'recovery' becomes a reference to 'the recovery, otherwise than under the Tribunals, Courts and Enforcement Act 2007 s 62(1), Sch 12 (taking control of goods) (see para 313 post)': see the Local Government Finance Act 1992 Sch 4 para 1(1) (prospectively amended by the Tribunals, Courts and Enforcement Act 2007 s 62(3), Sch 13 paras 101, 107(1), (2)). At the date at which this volume states the law, no such day had been appointed.

References to a sum which has become payable and has not been paid include references to a sum forming part of a larger sum which has become payable and the other part of which has been paid: Local Government Finance Act 1992 Sch 4 para 1(3). Regulations under Sch 4 para 1(1) (prospectively amended) may make, in relation to the recovery of any sum falling within Sch 4 para 1(1) (prospectively amended) which a person is solely liable to pay, any such provision as is authorised by Sch 4 paras 3–20 (as amended) (see also para 313 et seq post): Sch 4 para 2(1). Regulations under Sch 4 para 1(1) (prospectively amended) may make, in relation to any sum falling within Sch 4 para 1(1) (prospectively amended) which persons are jointly and severally liable to pay, provision equivalent to any so authorised subject to any modifications the Secretary of State (or the Welsh Ministers, as the case may be) thinks fit: Sch 4 para 2(2).

No provision of Pt I (ss 1–69) (as amended) (see para 228 et seq ante) which provides an express remedy is to prejudice any remedy available to a person (apart from that provision) in respect of a failure to observe a provision of Pt I (as amended): see s 69(4). For these purposes, references to Pt I (as amended) include references to instruments made under it: see s 69(4).

6 Ie under any provision included in regulations under ibid Sch 2 para 2, 3 or 6(2) or (3) (see para 279 ante): see Sch 4 para 1(2).

7 Ibid Sch 4 para 1(2). As from a day to be appointed under the Tribunals, Courts and Enforcement Act 2007 s 148(5), the Local Government Finance Act 1992 Sch 4 para 1(2) is amended so that the reference to 'recovery' becomes a reference to 'the recovery, otherwise than under the Tribunals, Courts and Enforcement Act 2007 s 62(1), Sch 12 (taking control of goods) (see para 313 post)': see the Local Government Finance Act 1992 Sch 4 para 1(2) (prospectively amended by the Tribunals, Courts and Enforcement Act 2007 Sch 13 paras 101, 107(1), (2)). At the date at which this volume states the law, no such day had been appointed.

Regulations under the Local Government Finance Act 1992 Sch 4 para 1(2) (prospectively amended) may provide that any sum falling within Sch 4 para 1(2) (prospectively amended) is recoverable in a court of competent jurisdiction: Sch 4 para 2(3).

8 Ie under the Local Government Finance Act 1992 Sch 4 para 1(1) (prospectively amended) (see the text and notes 1–5 supra): see Sch 4 para 19(1).

9 For these purposes, relevant enactments are the Attachment of Earnings Act 1971 (see ENFORCEMENT vol 17(1) (Reissue) para 272 et seq), the Charging Orders Act 1979 (see ENFORCEMENT vol 17(1) (Reissue) para 303 et seq), the Social Security Administration Act 1992 Pt II (ss 17–70) (as amended) (see SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) para 356 et seq) and any enactment applied by any of those enactments: Local Government Finance Act 1992 Sch 4 para 19(2).

10 For these purposes, 'prescribed' means prescribed by regulations made (in relation to England) by the Secretary of State and (in relation to Wales) by the Welsh Ministers: ibid Sch 4 para 20 (added by the Local Government Act 2003 s 127(1), Sch 7 paras 40, 54). For the meanings of 'England' and 'Wales' see para 1 note 2 ante. For regulations partly made under the Local Government Finance Act 1992 Sch 4 para 19 (prospectively amended) see note 2 supra.

11 Ibid Sch 4 para 19(1). Until a day to be appointed under the Tribunals, Courts and Enforcement Act 2007 s 148(5), regulations under the Local Government Finance Act 1992 Sch 4 para 19(1) may exclude any provision contained in the Distress (Costs) Act 1817 or the Distress (Costs) Act 1827 (which make provision as to the costs and expenses chargeable in respect of the levying of certain distresses): see the Local Government Finance Act 1992 Sch 4 para 19(3) (prospectively repealed by the Tribunals, Courts and Enforcement Act 2007 s 146, Sch 13 paras 101, 107(1), (7), Sch 23 Pt 3). At the date at which this volume states the law, no such day had been appointed.

311. Repayments. A sum which has become payable (by way of repayment) under the billing provisions[1] to a person other than a billing authority[2] but which has not been paid[3] is recoverable in a court of competent jurisdiction[4].

1 Ie under the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, Pt V (regs 17–31) (as amended) (see para 292 et seq ante): see reg 55.

2 As to billing authorities see para 229 ante.

3 As to a sum which has become payable but has not been paid see para 313 et seq post.

4 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 55.

312. Joint and several liability. A final notice served[1] on every person against whom the application for a liability order[2] is to be made may be addressed to two or more joint taxpayers[3] in joint names[4]. A liability order may be made against one or more joint taxpayers in respect of an amount for which they are jointly and severally liable[5]. Where a liability order has been made against two or more joint taxpayers[6]:

(1) an attachment of allowances order[7] or an attachment of earnings order[8] may be made against one of them, or different such orders may be made against more than one[9];

(2) a distress may be made against one or more of them[10];

(3) a charging order[11] may be made against one of them, or against more than one jointly, or different such orders may be made against more than one of them (as the circumstances require)[12]; and

(4) deductions may be made under the Income Support Regulations[13] from any amount payable to one or more of them by way of income support[14].

Where a liability order has been made against two or more joint taxpayers in respect of an amount, steps by way of any method specified in heads (1) to (4) above[15]:

(a) may not be taken under it in respect of one of them while steps by way of that or another of those methods are being taken under it in respect of another of them[16]; and

(b) may be taken under it in respect of one of them notwithstanding that no steps by way of that or another of those methods have been taken under it in respect of another of them[17].

Where a liability order has been made against two or more joint taxpayers and an amount is payable to one of them by way of income support[18], and:

(i) deductions are being made under the Income Support Regulations from any such amount[19]; or

(ii) an application under the Income Support Regulations[20] has been made in respect of him to the Secretary of State (or to the Welsh Ministers, as the case may be)[21] and remains undetermined[22],

no steps, or no further steps, by way of attachment of allowances or earnings, distress, commitment, bankruptcy or charging may be taken, under that or any other liability order, against him or any other of those joint taxpayers who is a member of his family[23].

Where a distress has been made against two or more joint taxpayers in respect of an amount, a warrant of commitment may[24] be applied for at any time against one of them or different warrants may be applied for against more than one of them[25]. However, no such application may be made in respect of any of them who has not attained the age of 18 years[26]; and where a liability order has been made against two or more joint taxpayers in respect of an amount, a warrant of commitment may not be applied for unless[27]:

(A) distress has been made against all of them[28]; and

(B) the person making the distress reports to the authority that, in relation to each of them, he was unable (for whatever reason) to find any or sufficient goods[29].

Where a liability order has been made against two or more joint taxpayers in respect of an amount, and a warrant of commitment is issued against one of them or a term of imprisonment is fixed in the case of one of them[30], no steps, or no further steps, may be taken against any of them by way of attachment of allowances or earnings, distress, bankruptcy or charging in relation to the relevant amount in respect of which a warrant of commitment may be made[31].

Where a liability order has been made against persons who are joint taxpayers, and a warrant of commitment is issued against one of them or a term of imprisonment is fixed in the case of one of them[32], no steps, or further steps, may be taken under the Income Support Regulations in respect of any of them in relation to the relevant amount in respect of which a warrant of commitment may be made[33].

Where a liability order has been made against two or more joint taxpayers in respect of an amount and in making distress against one of them goods jointly owned by both or all of them are found, distress may be levied against those goods with respect to that amount; but in any subsequent proceedings[34], charges arising[35] from such a distress must be treated as charges relating to the person against whose goods the levy was intended to be made when the joint goods were found, and not as charges relating to the other or others[36].

1 Ie in accordance with the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 33 (as amended) (see para 314 post): see reg 54(3). As to the service or giving of notices generally see para 280 ante.

2 For these purposes, 'liability order' means an order under ibid reg 34 (as amended) (see para 315 post) or reg 36A(5) (as added) (see para 323 post): reg 32(1) (definition amended in relation to Wales by SI 2004/785; in relation to England by SI 2004/927).

3 For these purposes, 'joint taxpayers' means two or more individuals who are jointly and severally liable to pay an amount in respect of council tax: Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 54(2). As to council tax generally see para 227 et seq ante; and as to liability to council tax generally see para 231 et seq ante.

4 Ibid reg 54(3). A summons under reg 34(2) (application for liability order) (see para 315 post) also may be addressed to two or more joint taxpayers in joint names: reg 54(3A) (added by SI 1992/3008).

The Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 54 (as amended) has effect with respect to the application of regs 33–53 (enforcement) (see para 314 et seq post) to a sum for which persons are jointly and severally liable under Pt V (regs 17–31) (as amended) (see para 292 et seq ante): reg 54(1).

5 Ibid reg 54(4). See note 4 supra.

6 Ibid reg 54(5) (amended by SI 1994/505). The Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 54(5) (as amended) is subject to reg 54(6) (as amended) (see the text and notes 15–17 infra) and reg 54(6A) (as added) (see the text and notes 18–23 infra): see reg 54(5) (as so amended). See note 4 supra.

7 For these purposes, 'attachment of allowances order' means an order under ibid reg 44 (see para 332 post): see reg 32(1).

8 For these purposes, 'attachment of earnings order' means an order under ibid reg 37 (as amended) (see para 325 post): see reg 32(1).

9 Ibid reg 54(5)(a). See note 4 supra.

10 Ibid reg 54(5)(b) (amended by SI 1994/505). See note 4 supra. As to distress see para 334 et seq post.

11 For these purposes, 'charging order' means an order under the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 50 (as amended) (see para 321 post): see reg 32(1).

12 Ibid reg 54(5)(c) (amended by SI 1994/505). See note 4 supra.

13 For these purposes, the 'Income Support Regulations' means the Council Tax (Deduction from Income Support) Regulations 1993, SI 1993/494 (as amended) (see paras 310 note 2 ante, 341 post): Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 32(1) (definition added by SI 1993/773).

14 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 54(5)(d) (added by SI 1994/505). See note 4 supra.

15 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 54(6). See note 4 supra.

16 Ibid reg 54(6)(a) (amended by SI 1994/505). See note 4 supra.

17 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 54(6)(b) (amended by SI 1994/505). See note 4 supra.

18 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 54(6A) (reg 54(6A), (6B) added by SI 1994/505). For these purposes, 'income support' means income support within the meaning of the Social Security Contributions and Benefits Act 1992 (see SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) para 176 et seq): Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 54(6B) (as so added).

19 Ibid reg 54(6A)(a) (as added: see note 18 supra). See note 4 supra.

20 Ie under the Council Tax (Deductions from Income Support) Regulations 1993, SI 1993/494, reg 2 (as amended) (see para 310 ante): see the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 54(6A)(b) (as added: see note 18 supra).
21 As to the Secretary of State and the Welsh Ministers see para 228 ante.
22 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 54(6A)(b) (as added: see note 18 supra). See note 4 supra.
23 Ibid reg 54(6A) (as added: see note 18 supra). See note 4 supra. For these purposes, 'family' has the same meaning as in the Social Security Contributions and Benefits Act 1992 s 137(1) (as amended) (see para 379 note 5 post): Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 54(6B) (as so added).
24 Ie subject to ibid reg 54(8) (see the text and notes 27–29 infra): see reg 54(7).
25 Ibid reg 54(7). See note 4 supra.
26 Ibid reg 54(7). See note 4 supra.
27 Ibid reg 54(8). See note 4 supra.
28 Ibid reg 54(8)(a). See note 4 supra.
29 Ibid reg 54(8)(b). See note 4 supra.
30 Ie under ibid reg 47(3) (see para 339 post): see reg 54(9).
31 Ibid reg 54(9). The text refers to the relevant amount mentioned in reg 47(4) (see para 339 post): see reg 54(9). See note 4 supra.
32 Ie under ibid reg 47(3) (see para 339 post): see reg 54(9A) (as added: see note 33 infra).
33 Ibid reg 54(9A) (added by SI 1993/773). The text refers to the relevant amount mentioned in the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 47(4) (see para 339 post): see reg 54(9A) (as so added). See note 4 supra.
34 Ie under ibid reg 47 (as amended) (see para 339 post): see reg 54(10).
35 Ie under ibid reg 45(2)(b), Sch 5 (Sch 5 as substituted and amended) (see para 335 post): see reg 54(10).
36 Ibid reg 54(10). Where:
(1) a liability order has been made against two or more joint taxpayers in respect of an amount (reg 54(11)(a) (reg 54(11) substituted by SI 1993/773)); and
(2) a charge has arisen as regards one of them under the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, Sch 5 para 1 Table head B (as substituted) (charges for levying distress) (see para 335 post) in respect of that amount (reg 54(11)(b) (as so substituted)),

no further charge may be aggregated for the purposes of reg 45(2) (see para 335 post) under that head or Sch 5 para 1 Table head A (as substituted and amended) (charges for making a visit to premises with a view to levying distress) (see para 335 post) in consequence of any subsequent levy or attempted levy against either in respect of that amount; and a charge under head A(i) (as substituted and amended) (see para 335 post) or charges under that head and head A(ii) (as substituted and amended) (see para 335 post) against one of them must be treated for those purposes as a charge or, as the case may be, charges under that head with respect to the other as well as that one (reg 54(11) (as so substituted)). See note 4 supra.

(ii) Liability Orders

313. Provision for liability orders. Regulations made under the provisions that govern the recovery of sums which have become payable in respect of the council tax but have not been paid[1] may provide that[2]:

(1) the authority concerned may apply to a magistrates' court for an order (a 'liability order') against the person by whom the sum is payable[3];
(2) the magistrates' court must make the order if it is satisfied that the sum has become payable by the person concerned and has not been paid[4].

The regulations may include provision:

(a) that the order must be made in respect of an amount equal to the aggregate of: (i) the sum payable[5]; and (ii) a sum (of a prescribed[6] amount or an amount determined in accordance with prescribed rules) in respect of the costs incurred in obtaining the order[7];
(b) that, where the sum payable is paid after the order has been applied for but before it is made, the magistrates' court must nonetheless make the order in respect of a sum (of a prescribed amount or an amount determined in accordance with prescribed rules) in respect of the costs incurred in applying for it[8];

(c) prescribing steps to be taken before an application may be made[9];
(d) that no application may be made after a prescribed period has expired[10];
(e) prescribing the procedure to be followed for the initiation of an application (which may include provision as to form)[11];
(f) prescribing the procedure to be followed in dealing with an application[12];
(g) prescribing the form and contents of an order[13].

Separate provision is made as to the circumstances in which, a liability order having been made, it may be quashed[14].

1 Ie regulations under the Local Government Finance Act 1992 s 14(3), Sch 4 para 1(1) (prospectively amended) (see para 310 ante): see Sch 4 para 3(1). As to the making of regulations under the Local Government Finance Act 1992 generally see para 228 ante; and as to the regulations so made under Sch 4 para 1(1) (prospectively amended) see para 310 note 2 ante; and para 314 et seq post. As to council tax generally see para 227 et seq ante.
2 Ibid Sch 4 para 3(1).
3 Ibid Sch 4 para 3(1)(a).

As from a day to be appointed under the Tribunals, Courts and Enforcement Act 2007 s 148(5), where a liability order has been made against a person under regulations made under the Local Government Finance Act 1992 Sch 4 (as amended; prospectively further amended) (see para 310 ante), the billing authority concerned may use the procedure in the Tribunals, Courts and Enforcement Act 2007 s 62(1), Sch 12 (taking control of goods) to recover the amount in respect of which the order was made, to the extent that it remains unpaid: see the Local Government Finance Act 1992 s 14(4) (prospectively added by the Tribunals, Courts and Enforcement Act 2007 s 62(3), Sch 13 paras 101, 106). However, at the date at which this volume states the law, no such day had been appointed. As to billing authorities see para 229 ante.

4 Local Government Finance Act 1992 Sch 4 para 3(1)(b).
5 Ibid Sch 4 para 3(2)(a).
6 For these purposes, 'prescribed' means prescribed by regulations made (in relation to England) by the Secretary of State and (in relation to Wales) by the Welsh Ministers: ibid Sch 4 para 20 (added by the Local Government Act 2003 s 127(1), Sch 7 paras 40, 54). See note 1 supra. For the meanings of 'England' and 'Wales' see para 1 note 2 ante. As to the Secretary of State and the Welsh Ministers see para 228 ante.
7 Local Government Finance Act 1992 Sch 4 para 3(2)(b).
8 Ibid Sch 4 para 3(3).
9 Ibid Sch 4 para 3(4)(a).
10 Ibid Sch 4 para 3(4)(b).
11 Ibid Sch 4 para 3(4)(c).
12 Ibid Sch 4 para 3(4)(d).
13 Ibid Sch 4 para 3(4)(e).
14 See ibid Sch 4 para 12A (as added); and para 322 post.

314. Preliminary steps in the application for a liability order. Before a billing authority[1] applies for a liability order[2] it must serve on the person against whom the application is to be made a notice[3] (a 'final notice') which is to state every amount in respect of which the authority is to make the application[4]. A final notice may be served in respect of an amount at any time after it has become due[5].

1 As to billing authorities see para 229 ante.
2 For the meaning of 'liability order' see para 312 note 2 ante.
3 As to the service or giving of notices generally see para 280 ante.
4 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 33(1) (amended by SI 1994/505). However, nothing in the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 33(1) (as amended) requires the service of a final notice in the circumstances mentioned in reg 23(3) (as amended) (see para 298 ante) (including reg 23(3) (as amended) as applied as mentioned in reg 28A(2) (as added) (see para 297 ante)): reg 33(3) (substituted by SI 1994/505).

The Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, regs 33–53 (as amended) (see also para 315 et seq post) apply for the recovery of a sum which has become payable to a billing authority under Pt V (regs 17–31) (as amended) (see para 292 et seq ante) and which has not been paid; but their application in relation to a sum for which persons are jointly and severally liable under

Pt V (as amended) is subject to the provisions of reg 54 (as amended) (see para 312 ante): reg 32(3). For these purposes, references to a sum which has become payable and which has not been paid include references to a sum forming part of a larger sum which has become payable and the other part of which has been paid: reg 32(4).

5 Ibid reg 33(2). See note 4 supra.

315. Application for liability order. If an amount which has fallen due[1] is wholly or partly unpaid[2], or (in a case where a final notice is required[3]) the amount stated in the final notice is wholly or partly unpaid at the expiry of the period of seven days beginning with the day on which the notice was issued[4], the billing authority[5] may apply to a magistrates' court for an order (a 'liability order') against the person by whom it is payable[6]. The application is to be instituted by making complaint to a justice of the peace[7], and requesting the issue of a summons directed to that person to appear before the court to show why he has not paid the sum which is outstanding[8]. If, after a summons has been so issued but before the application is heard, there is paid or tendered to the authority an amount equal to the aggregate of[9]:

(1) the sum specified in the summons as the sum outstanding or so much of it as remains outstanding (as the case may be)[10]; and

(2) a sum of an amount equal to the costs reasonably incurred by the authority in connection with the application up to the time of the payment or tender[11],

the authority must accept the amount and the application must not be proceeded with[12].

The court must make the order if it is satisfied that the sum has become payable by the defendant and has not been paid[13]. An order so made must be made in respect of an amount equal to the aggregate of: (a) the sum payable[14]; and (b) a sum of an amount equal to the costs reasonably incurred by the applicant in obtaining the order[15]. Where the sum payable is paid after a liability order has been duly applied for[16] but before it is made, the court must nonetheless (if so requested by the billing authority) make the order in respect of a sum of an amount equal to the costs reasonably incurred by the authority in making the application[17].

The amount in respect of which a liability order is made is enforceable in accordance with the council tax enforcement provisions[18]; and accordingly, for the purposes of any of the provisions of Part III of the Magistrates' Courts Act 1980[19], it is not to be treated as a sum adjudged to be paid by order of the court[20].

1 Ie under the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 23(3), (4) (as amended) (see para 298 ante) (including reg 23(3), (4) as applied as mentioned in reg 28A(2) (as added) (see para 297 ante)): see reg 34(1) (as amended: see note 6 infra).

2 As to sums which have become payable and which have not been paid see para 314 note 4 ante.

3 Ie under the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 33 (as amended) (see para 314 ante): see reg 34(1) (as amended: see note 6 infra).

4 For these purposes, any reference to the day on or time at which a notice is issued, is a reference:

(1) if the notice is served in the manner described in the Local Government Act 1972 s 233(2) (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 443) by being left at, or sent by post to, a person's proper address, to the day on or time at which it is so left or posted (Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 32(5)(a) (reg 32(5) added by SI 1992/3008)); or

(2) in any other case, to the day on or time at which the notice is served (Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 32(5)(b) (as so added).

As to the service or giving of notices generally see para 280 ante.

5 As to billing authorities see para 229 ante.

6 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 34(1) (amended by SI 1992/3008). 'Liability order' means an order under the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 34 (as amended) or reg 36A(5) (as added) (see para 323 post): see reg 32(1) (definition as amended); and para 312 note 2 ante. As to the magistrates'

court, and as to the admissibility in proceedings under reg 34 (as amended) of evidence derived from records compiled by the applicant authority (or by an authorised person) before such a court, see para 344 post.

As to the application of reg 34 (as amended) and reg 35 (as amended) (see the text and notes 8, 15, 18–20 infra) to Pt V (regs 17–31) (as amended) (see para 292 et seq ante) see para 314 note 4 ante.

A pending claim for council tax benefit (as to which see para 371 et seq post) is unlikely to give the tax payer a defence to the billing authority's application for a liability order: see *R v Bristol City Magistrates' Court and Bristol City Council, ex p Willsman* [1991] RA 292, 156 LGR 442, CA; and see *R (on the application of Williams) v Pontefract Magistrates' Court* [2002] EWHC 1265 (Admin), [2002] RVR 259, [2002] All ER (D) 465 (May) (the issues for determination on an application for a liability order do not include a consideration of whether the defaulter should or should not have received council tax benefit). Some of the cases cited in this paragraph were decided under earlier legislation, and they must therefore now be considered in relation to the provisions of the Local Government Finance Act 1992 (see paras 228 et seq ante, 316 et seq post). As to the historical development of rating law and the continuing relevance of old case law to the current statutory regime governing council tax see para 2 ante.

7 References to a justice of the peace in the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 34(2) must be construed subject to the Justices' Clerks Rules 2005, SI 2005/545, r 3 (as amended) (which authorises certain matters authorised to be done by a justice of the peace to be done by a justices' clerk) (see MAGISTRATES vol 29(2) (Reissue) para 638): Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 53(3).

8 Ibid reg 34(2). As to the appropriate procedure where applications for liability orders are made as a result of incorrect service see *R (on the application of Tull) v Camberwell Green Magistrates' Court* [2004] EWHC 2780 (Admin), [2005] RA 31, [2004] All ER (D) 269 (Nov). See also *R (on the application of Clark-Darby) v Highbury Corner Magistrates' Court* [2001] EWHC Admin 959, [2002] RVR 35, [2001] All ER (D) 229 (Nov) (failure to give the taxpayer notice of hearing at which the billing authority obtained a liability order against her in respect of unpaid council tax amounted to a breach of natural justice for which judicial review was the appropriate remedy).

The Magistrates' Courts Act 1980 s 127(1) (limitation of time) (see MAGISTRATES vol 29(2) (Reissue) para 589) does not apply to an application under the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 34 (as amended); but no application may be instituted in respect of a sum after the period of six years beginning with the day on which it became due under Pt V (as amended) (see para 292 et seq ante): reg 34(3). Accordingly, the limitation period in reg 34(3) runs from the date of the demand under reg 18(1) (see para 292 ante): see *Regentford Ltd v Thanet District Council* [2004] EWHC 246 (Admin), [2004] RA 113, (2004) Times, 4 March.

A warrant must not be issued under the Magistrates' Courts Act 1980 s 55(2) (see MAGISTRATES vol 29(2) (Reissue) para 693) in any proceedings under the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 34 (as amended): reg 34(4). No liability order is to be made in pursuance of a summons issued under reg 34(2) unless 14 days have elapsed since the day on which the summons was served: reg 35(2A) (added by SI 1998/295). For these purposes, a summons issued under the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 34(2) may be served on a person:

(1) by delivering it to him (reg 35(2)(a)); or
(2) by leaving it at his usual or last-known place of abode, or, in the case of a company, at its registered office (reg 35(2)(b)); or
(3) by sending it by post to him at his usual or last-known place of abode, or, in the case of a company, to its registered office (reg 35(2)(c)); or
(4) by leaving it at, or by sending it by post to him at, an address given by the person as an address at which service of the summons will be accepted (reg 35(2)(d)).

As to the registered office of a company see COMPANIES vol 7(1) (2004 Reissue) para 346. A summons under reg 34(2) may be addressed to two or more joint taxpayers in joint names: see reg 54(3A) (as added); and para 312 ante. For the meaning of 'joint taxpayers' see para 312 note 3 ante.

9 Ibid reg 34(5).

10 Ibid reg 34(5)(a).

11 Ibid reg 34(5)(b).

12 Ibid reg 34(5).

13 Ibid reg 34(6).

Sums due following a liability order may be included in an administration order under the County Courts Act 1984 Pt VI (ss 112–117) (as amended) (see BANKRUPTCY AND INDIVIDUAL INSOLVENCY vol 3(2) (2002 Reissue) para 893 et seq) where the debtor is unable to pay the judgment sum immediately: see *Preston Borough Council v Riley* [1995] RA 227, (1995) Times, 19 April, CA.

14 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 34(7)(a).

15 Ibid reg 34(7)(b). A single liability order may deal with one person and one such amount (or aggregate amount) as is mentioned in reg 34(7) or reg 34(8) (see the text and notes 16–17 infra), or, if the court

thinks fit, may deal with more than one person and more than one such amount: reg 35(1) (amended in relation to Wales by SI 2003/1715; in relation to England by SI 2003/2211).

16 Ie under the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 34(2) (see the text and notes 7–8 supra): see reg 34(8).

17 Ibid reg 34(8). See note 15 supra.

18 Ie ibid Pt VI (regs 32–57) (as amended) (see paras 314 ante, 317 et seq post): see reg 35(3).

19 Ie the Magistrates' Courts Act 1980 Pt III (ss 75–96A) (as amended) (satisfaction and enforcement) (see MAGISTRATES vol 29(2) (Reissue) para 852 et seq): see the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 35(3).

20 Ibid reg 35(3).

316. Provision for information. Regulations made under the provisions that govern the recovery of sums which have become payable in respect of the council tax but have not been paid[1] may provide that where a magistrates' court has made a liability order[2] against a person (the 'debtor') he is to be, during such time as the amount in respect of which the order was made remains wholly or partly unpaid, under a duty to supply relevant information[3] to the authority concerned[4]. The regulations may include provision that the information is to be supplied in a prescribed form and within a prescribed period of the request being made[5].

1 Ie regulations under the Local Government Finance Act 1992 s 14(3), Sch 4 para 1(1) (prospectively amended) (see para 310 ante): see Sch 4 para 4(1). As to the making of regulations under the Local Government Finance Act 1992 generally see para 228 ante; and as to the regulations so made under Sch 4 para 1(1) (prospectively amended) see para 310 note 2 ante; and para 317 post. As to council tax generally see para 227 et seq ante.

2 As to provision made for liability orders see para 313 et seq ante.

3 Relevant information is such information as fulfils the following conditions:

(1) it is in the debtor's possession or control (Local Government Finance Act 1992 Sch 4 para 4(2)(a));

(2) the authority requests him to supply it (Sch 4 para 4(2)(b)); and

(3) it falls within a prescribed description of information (Sch 4 para 4(2)(c)).

For these purposes, 'prescribed' means prescribed by regulations made (in relation to England) by the Secretary of State and (in relation to Wales) by the Welsh Ministers: Sch 4 para 20 (added by the Local Government Act 2003 s 127(1), Sch 7 paras 40, 54). See note 1 supra. For the meanings of 'England' and 'Wales' see para 1 note 2 ante. As to the Secretary of State and the Welsh Ministers see para 228 ante. As to the meaning of 'information' see para 228 note 23 ante.

4 Local Government Finance Act 1992 Sch 4 para 4(1).

5 Ibid Sch 4 para 4(3). See note 3 supra.

317. Duties of debtors subject to liability order. Where a liability order[1] has been made, the debtor[2] against whom it was made is, during such time as the amount in respect of which the order was made remains wholly or partly unpaid[3], under a duty to supply relevant information[4] to the billing authority on whose application it was made[5]. Information is to be supplied within 14 days of the day on which the request is made[6].

1 For the meaning of 'liability order' see para 312 note 2 ante.

2 For these purposes, 'debtor' means a person against whom a liability order has been made: Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 32(1).

3 As to sums which have become payable and which have not been paid see para 314 note 4 ante.

4 For these purposes, 'relevant information' is such information as fulfils the following conditions:

(1) it is in the debtor's possession or control (Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 36(2)(a));

(2) the billing authority requests him by notice given in writing to supply it (reg 36(2)(b)); and

(3) it falls within reg 36(3) (as amended) (reg 36(2)(c)).

Information falls within reg 36(3) (as amended) if it is specified in the notice mentioned in reg 36(2)(b) (see head (2) supra) and it falls within one or more of the following descriptions:

(a) information as to the name and address of an employer of the debtor (reg 36(3)(a));

(b) information as to earnings or expected earnings of the debtor (reg 36(3)(b));

(c) information as to deductions and expected deductions from such earnings in respect of the matters referred to in heads (A)–(C) infra (i e in the definition of 'net earnings') or attachment of

earnings orders (i e made under Pt VI (regs 32–57) (as amended) (see paras 314 et seq ante, 319 et seq post); the Community Charges (Administration and Enforcement) Regulations 1989, SI 1989/438, reg 32 (now lapsed); the Attachment of Earnings Act 1971 (see ENFORCEMENT vol 17(1) (Reissue) para 272 et seq); or the Child Support Act 1991 (see CHILDREN AND YOUNG PERSONS vol 5(3) (2008 Reissue) para 559)) (Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 36(3)(c) (amended by SI 1993/773));

(d) information as to the debtor's work or identity number in an employment, or such other information as will enable an employer of the debtor to identify him (Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 36(3)(d));

(e) information as to sources of income of the debtor other than an employer of his (reg 36(3)(e));

(f) information as to whether another person is jointly and severally liable with the debtor for the whole or any part of the amount in respect of which the order was made (reg 36(3)(f)).

As to billing authorities see para 229 ante. As to the service or giving of notices generally see para 280 ante.

'Earnings' means sums payable to a person by way of wages or salary (including any fees, bonus, commission, overtime pay or other emoluments payable in addition to wages or salary or payable under a contract of service) or by way of statutory sick pay: reg 32(1). However, in so far as the following would otherwise be treated as earnings, they must not be treated as such: (i) sums payable by any public department of the government of Northern Ireland or of a territory outside the United Kingdom; (ii) pay or allowances payable to the debtor as a member of Her Majesty's forces other than pay or allowances payable by his employer to him as a special member of a reserve force (within the meaning of the Reserve Forces Act 1996 (see ARMED FORCES vol 2(2) (Reissue) para 223 et seq)); (iii) allowances or benefit payable under the Social Security Contributions and Benefits Act 1992 and the Social Security Administration Act 1992 (see SOCIAL SECURITY AND PENSIONS); (iv) a tax credit (within the meaning of the Tax Credits Act 2002 (see SOCIAL SECURITY AND PENSIONS)); (v) allowances payable in respect of disablement or disability (see SOCIAL SECURITY AND PENSIONS); and (vi) wages payable to a person as a seaman, other than wages payable to him as a seaman of a fishing boat: Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 32(1) (definition amended by SI 1999/534; in relation to Wales by SI 2003/522; in relation to England by SI 2003/768). For the purposes of head (vi) supra, expressions used in the Merchant Shipping Act 1894 have the same meanings as in that Act (see SHIPPING AND NAVIGATION vol 43(1) (Reissue) para 10 et seq): Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 32(2). For the meaning of 'United Kingdom' see para 127 note 20 ante.

'Net earnings' in relation to an employment means the residue of earnings payable under the employment after deduction by the employer of: (A) income tax; (B) primary Class 1 contributions under the Social Security Contributions and Benefits Act 1992 Pt I (ss 1–19A) (as amended) (see SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) para 34 et seq); (C) amounts deductible under any enactment, or in pursuance of a request in writing by the debtor, for the purposes of a superannuation scheme, namely any enactment, rules, deed or other instrument providing for the payment of annuities or lump sum (either to the persons with respect to whom the instrument has effect on their retirement at a specified age or on becoming incapacitated at some earlier age or to the personal representatives or the widows, widowers, surviving civil partners, relatives or dependants of such persons on their death or otherwise) whether with or without any further or other benefits; and (D) where an order under the Community Charges (Administration and Enforcement) Regulations 1989, SI 1989/438, reg 32 (now lapsed) made before the making of the attachment of earnings order concerned remains in force, any amount required to be deducted in accordance with that order: Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 32(1) (definition amended by SI 1993/773; in relation to England by SI 2005/2866; in relation to Wales by SI 2005/3302). For the meaning of 'attachment of earnings order' see para 312 note 8 ante.

5 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 36(1).

As to the application of reg 36 (as amended) to Pt V (regs 17–31) (as amended) (see para 292 et seq ante) see para 314 note 4 ante.

6 Ibid reg 36(4).

318. Provision for amount due under a liability order to be deemed a debt. Regulations made under the provisions that govern the recovery of sums which have become payable in respect of the council tax but have not been paid[1] may provide that where a magistrates' court has made a liability order[2] against a person (the 'debtor') and the debtor is an individual, the amount due is deemed to be a debt for the purposes of the Insolvency Act 1986[3]. The amount due is an amount equal to any outstanding sum which is or forms part of the amount in respect of which the liability order was made[4].

Such regulations may provide also that where a magistrates' court has made a liability order against a person (the 'debtor') and the debtor is a company, the amount due is deemed to be a debt for the purposes of the Insolvency Act 1986[5]. The amount due is an amount equal to any outstanding sum which is or forms part of the amount in respect of which the liability order was made[6].

1 Ie regulations under the Local Government Finance Act 1992 s 14(3), Sch 4 para 1(1) (prospectively amended) (see para 310 ante): see Sch 4 para 9(1). As to the making of regulations under the Local Government Finance Act 1992 generally see para 228 ante; and as to the regulations so made under Sch 4 para 1(1) (prospectively amended) see para 310 note 2 ante; and para 319 post. As to council tax generally see para 227 et seq ante.
2 As to provision made for liability orders see para 313 et seq ante.
3 Local Government Finance Act 1992 Sch 4 para 9(1). The text refers to the purposes of the Insolvency Act 1986 s 267 (prospectively amended) (grounds of creditor's petition) (see BANKRUPTCY AND INDIVIDUAL INSOLVENCY vol 3(2) (2002 Reissue) para 126): see the Local Government Finance Act 1992 Sch 4 para 9(1).
4 Ibid Sch 4 para 9(2).
5 Ibid Sch 4 para 10(1). The text refers to the purposes of the Insolvency Act 1986 s 122(1)(f) (winding up of companies by the court) (see COMPANY AND PARTNERSHIP INSOLVENCY vol 7(3) (2004 Reissue) para 444) or, as the case may be, s 221(5)(b) (winding up of unregistered companies) (see COMPANY AND PARTNERSHIP INSOLVENCY vol 7(4) (2004 Reissue) para 1151): see the Local Government Finance Act 1992 Sch 4 para 10(1).
6 Ibid Sch 4 para 10(2).

319. Amount due under liability order deemed to be debt. Where a liability order[1] has been made and the debtor[2] against whom it was made is an individual, the amount due[3] is deemed to be a debt for the purposes of the Insolvency Act 1986[4].

Similarly, where a liability order has been made and the debtor against whom it was made is a company, the amount due is also deemed to be a debt for the purposes of the Insolvency Act 1986[5].

1 For the meaning of 'liability order' see para 312 note 2 ante.
2 For the meaning of 'debtor' see para 317 note 2 ante.
3 For these purposes, the amount due is an amount equal to any outstanding sum which is or forms part of the amount in respect of which the liability order was made: Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 49(3).

As to the application of reg 49 to Pt V (regs 17–31) (as amended) (see para 292 et seq ante) see para 314 note 4 ante.
4 Ibid reg 49(1). The text refers to the purposes of the Insolvency Act 1986 s 267 (prospectively amended) (grounds of creditor's petition) (see BANKRUPTCY AND INDIVIDUAL INSOLVENCY vol 3(2) (2002 Reissue) para 126): see the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 49(1).
5 Ibid reg 49(2). The text refers to the purposes of the Insolvency Act 1986 s 122(1)(f) (winding up of companies by the court) (see COMPANY AND PARTNERSHIP INSOLVENCY vol 7(3) (2004 Reissue) para 444) or, as the case may be, s 221(5)(b) (winding up of unregistered companies) (see COMPANY AND PARTNERSHIP INSOLVENCY vol 7(4) (2004 Reissue) para 1151): see the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 49(2).

320. Provision for charging orders. Regulations made under the provisions that govern the recovery of sums which have become payable in respect of the council tax but have not been paid[1] may provide that where a magistrates' court has made a liability order against a person[2] (the 'debtor') and prescribed[3] conditions are fulfilled[4]:

(1) the authority concerned may apply to a court for an order (a 'charging order') imposing, on any interest held by the debtor beneficially in the relevant dwelling[5], a charge for securing the due amount[6]; and
(2) a charge imposed by a charging order must have the like effect and must be enforceable in the same courts and in the same manner as an equitable charge created by the debtor by writing under his hand[7].

The regulations may include provision:

(a) as to the court to which an application may be made (which may be the High Court or a county court)[8];

(b) as to the factors to be considered by the court in deciding whether to make a charging order[9];

(c) requiring an order to specify the dwelling and interest concerned, and such other matters as may be prescribed[10];

(d) requiring an order to be in a prescribed form[11];

(e) allowing an order to be made absolutely or subject to conditions[12];

(f) as to the discharge or variation of an order[13].

1 Ie regulations under the Local Government Finance Act 1992 s 14(3), Sch 4 para 1(1)(a) (see para 310 ante): see Sch 4 para 11(1). This excludes regulations made under Sch 4 para 1(1)(b), i e those relating to the collection of amounts payable as penalties: see para 310 ante. As to the making of regulations under the Local Government Finance Act 1992 generally see para 228 ante; and as to the regulations so made under Sch 4 para 1(1) (prospectively amended) see para 310 note 2 ante; and para 321 post. As to council tax generally see para 227 et seq ante.

2 Regulations under ibid Sch 4 para 1(1)(a) (see para 310 ante) may provide that two or more liability orders against the same person will be treated as a single liability order for the purposes of provision included by virtue of Sch 4 para 11 if an application under such provision could be made in respect of each of them in relation to the same dwelling: Sch 4 para 11A (added by the Local Government Act 2003 s 81). For the meaning of 'dwelling' see para 232 ante. As to provision made for liability orders see para 313 et seq ante.

3 For these purposes, 'prescribed' means prescribed by regulations made (in relation to England) by the Secretary of State and (in relation to Wales) by the Welsh Ministers: Local Government Finance Act 1992 Sch 4 para 20 (added by the Local Government Act 2003 s 127(1), Sch 7 paras 40, 54). See note 1 supra. For the meanings of 'England' and 'Wales' see para 1 note 2 ante. As to the Secretary of State and the Welsh Ministers see para 228 ante.

4 Local Government Finance Act 1992 Sch 4 para 11(1).

5 For these purposes, the relevant dwelling is the dwelling in respect of which, at the time the application for the liability order was made, the debtor was liable to pay the sum falling within ibid Sch 4 para 1(1)(a) (see para 310 ante): Sch 4 para 11(2).

6 Ibid Sch 4 para 11(1)(a). For these purposes, the due amount is the aggregate of:

(1) an amount equal to any outstanding sum which is or forms part of the amount in respect of which the liability order was made (Sch 4 para 11(3)(a)); and

(2) a sum (of a prescribed amount or an amount determined in accordance with prescribed rules) in respect of costs connected with the charging order (Sch 4 para 11(3)(b)).

7 Ibid Sch 4 para 11(1)(b).

8 Ibid Sch 4 para 11(4)(a).

9 Ibid Sch 4 para 11(4)(b).

10 Ibid Sch 4 para 11(4)(c).

11 Ibid Sch 4 para 11(4)(d).

12 Ibid Sch 4 para 11(4)(e).

13 Ibid Sch 4 para 11(4)(f).

321. Charging orders. In circumstances where:

(1) a magistrates' court has made one or more liability orders[1];

(2) the amount[2] in respect of which the liability order was made, or, where more than one liability order was made, the aggregate of the amounts[3] in respect of which each such liability order was made, is an amount the debtor[4] is liable to pay under the billing provisions[5]; and

(3) at the time that the application is made at least £1,000 of the amount in respect of which the liability order was made, or, where more than one liability order was made, the aggregate of the amounts in respect of which those liability orders were made, remains outstanding[6],

an application to the appropriate court[7] may be made[8], being an application by the authority concerned[9] for an order imposing, on any interest held by the debtor

beneficially in the relevant dwelling, a charge for securing the due amount[10]; and the court may make such an order (a 'charging order')[11] on such an application[12].

In deciding whether to make a charging order, the court must consider all the circumstances of the case, and in particular any evidence before it as to: (a) the personal circumstances of the debtor[13]; and (b) whether any other person would be likely to be unduly prejudiced by the making of the order[14].

A charging order must specify the dwelling concerned and the interest held by the debtor beneficially in it[15]; and may, as the court thinks fit, be made absolutely or subject to conditions as to the time when the charge is to become enforceable or as to other matters[16].

A charge imposed by a charging order has the like effect and is enforceable in the same courts and in the same manner as an equitable charge created by the debtor by writing under his hand[17]. The court by which a charging order was made may at any time, on the application of the debtor, the authority on whose application the order was made or any person interested in the dwelling, make an order discharging or varying the charging order[18]. The Land Charges Act 1972 and the Land Registration Act 1925 apply in relation to charging orders as they apply in relation to orders or writs issued or made for the purposes of enforcing judgments[19].

1 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 50(1)(a) (reg 50(1), (3) substituted in relation to Wales by SI 2004/785; in relation to England by SI 2004/927). The text refers to one or more liability orders made pursuant to the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 34(6) (see para 315 ante) or reg 36A(5) (as added) (see para 323 post): see reg 50(1)(a) (as so substituted). For the meaning of 'liability order' see para 312 note 2 ante.

As to the application of reg 50 (as amended) and reg 51 (see the text and notes 13–19 infra) to Pt V (regs 17–31) (as amended) (see para 292 et seq ante) see para 314 note 4 ante.

2 Ie the amount mentioned in ibid reg 34(7)(a) (see para 315 ante) or reg 36A(5)(a) (as added) (see para 323 post): see reg 50(1)(b) (as substituted: see note 1 supra).

3 Ie the aggregate of the amounts mentioned in ibid reg 34(7)(a) (see para 315 ante) or reg 36A(5)(a) (as added) (see para 323 post): see reg 50(1)(b) (as substituted: see note 1 supra).

4 For the meaning of 'debtor' see para 317 note 2 ante.

5 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 50(1)(b) (as substituted: see note 1 supra). The text refers to liability to pay under Pt V (as amended) (see para 292 et seq ante): see reg 50(1)(b) (as so substituted).

6 Ibid reg 50(1)(c) (as substituted: see note 1 supra).

7 For these purposes, the appropriate court is the county court for the area in which the relevant dwelling is situated: ibid reg 50(3)(d) (as substituted: see note 1 supra). See further para 344 post. The 'relevant dwelling' is the dwelling in respect of which, at the time the application for the liability order was made, or, where more than one liability order was made, at the time the applications for the liability orders were made, the debtor was liable to pay council tax: reg 50(3)(b) (as so substituted). For the meaning of 'dwelling' see para 232 ante. As to council tax generally see para 227 et seq ante; and as to liability to council tax generally see para 231 et seq ante.

8 Ibid reg 50(1), (2) (reg 50(1) as substituted: see note 1 supra).

9 For these purposes, the authority concerned is the authority which applied for the one or more liability orders referred to in ibid reg 50(1)(a) (as substituted) (see head (1) in the text): reg 50(3)(a) (as substituted: see note 1 supra).

10 For these purposes, the due amount is the aggregate of: (1) an amount equal to any outstanding sum which is or forms part of the amount in respect of which the one or more liability orders were made (ibid reg 50(3)(c)(i) (as substituted: see note 1 supra)); and (2) a sum of an amount equal to the costs reasonably incurred by the applicant in obtaining the charging order (reg 50(3)(c)(ii) (as so substituted)).

11 Ie an order under ibid reg 50 (as amended): see reg 32(1); and para 312 note 11 ante.

12 Ibid reg 50(2).

13 Ibid reg 51(1)(a).

14 Ibid reg 51(1)(b).

15 Ibid reg 51(2)(a).

16 Ibid reg 51(2)(b).

17 Ibid reg 51(3).

18 Ibid reg 51(4). Where a charging order has been protected by an entry registered under the Land Charges Act 1972 (see LAND CHARGES) or the Land Registration Act 1925 (see LAND REGISTRATION), an order under the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 51(4) discharging the charging order may direct that the entry be cancelled: reg 51(6).

19 Ibid reg 51(5).

322. Provision for quashing of liability orders on application. Regulations made under the provisions that govern the recovery of sums which have become payable in respect of the council tax but have not been paid[1] may provide[2]:

(1) that, where on an application by the authority concerned a magistrates' court is satisfied that a liability order[3] should not have been made, it must quash the order[4];

(2) that, where on an application to a magistrates' court for the quashing of a liability order, the court is satisfied that, had the original application been for a liability order in respect of a lesser sum payable, such an order could properly have been made, it must substitute a liability order in respect of the aggregate of[5]: (a) that lesser sum[6]; and (b) any sum included in the quashed order in respect of the costs incurred in obtaining it[7].

1 Ie regulations under the Local Government Finance Act 1992 s 14(3), Sch 4 para 1(1) (prospectively amended) (see para 310 ante): see Sch 4 para 12A (as added: see note 2 infra). As to the making of regulations under the Local Government Finance Act 1992 generally see para 228 ante; and as to the regulations so made under Sch 4 para 1(1) (prospectively amended) see para 310 note 2 ante; and para 323 post. As to council tax generally see para 227 et seq ante.

2 Ibid Sch 4 para 12A (added by the Local Government Act 2003 s 82).

3 As to provision made for liability orders see para 313 et seq ante.

4 Local Government Finance Act 1992 Sch 4 para 12A(a) (as added: see note 2 supra).

5 Ibid Sch 4 para 12A(b) (as added: see note 2 supra).

6 Ibid Sch 4 para 12A(b)(i) (as added: see note 2 supra).

7 Ibid Sch 4 para 12A(b)(ii) (as added: see note 2 supra).

323. Quashing of liability orders following application. Where a magistrates' court has made a liability order[1] and the authority on whose application the liability order was made considers that the order should not have been made[2], the authority may apply to a magistrates' court to have the liability order quashed[3]. Where, on such an application, the magistrates' court is satisfied that the liability order should not have been made, it must quash the order[4].

Where an authority makes an application[5] for a liability order (the 'original order') to be quashed, and a lesser amount than the amount for which the original order was made has fallen due[6] and is wholly or partly unpaid or, in a case where a final notice is required[7], the amount stated in the final notice is wholly or partly unpaid at the expiry of the period of seven days beginning with the day on which the notice was issued, the billing authority may also apply to the magistrates' court for an order against the person by whom the lesser amount was payable[8]. The application is to be instituted by making complaint to a justice of the peace[9], and requesting the issue of a summons directed to that person to appear before the court to show why he has not paid the sum which is outstanding[10]. If, after a summons has been so issued but before the application is heard, there is paid or tendered to the authority an amount equal to the aggregate of[11]:

(1) the sum specified in the summons as the sum outstanding or so much of it as remains outstanding (as the case may be)[12]; and

(2) a sum of an amount equal to the costs reasonably incurred by the authority in connection with the application up to the time of the payment or tender[13],

the authority must accept the amount and the application must not be proceeded with[14].

Where, having quashed a liability order[15], the magistrates' court is satisfied that, had the original application for the liability order been for a liability order in respect of a lesser sum payable, such an order could properly have been made, it must make a liability order in respect of the aggregate of[16]: (a) the lesser sum payable[17]; and (b) any sum included in the quashed order in respect of the costs reasonably incurred by the authority in obtaining the quashed order[18].

1 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 36A(1)(a) (reg 36A added in relation to Wales by SI 2004/785; in relation to England by SI 2004/927). The text refers to a liability order made under the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 34(6) (see para 315 ante): see reg 36A(1)(a) (as so added). For the meaning of 'liability order' see para 312 note 2 ante.

As to the application of reg 36A (as added) to Pt V (regs 17–31) (as amended) (see para 292 et seq ante) see para 314 note 4 ante.

2 Ibid reg 36A(1)(b) (as added: see note 1 supra).

3 Ibid reg 36A(1) (as added: see note 1 supra).

4 Ibid reg 36A(2) (as added: see note 1 supra). As to the magistrates' court on such an application see para 344 post.

5 Ie under ibid reg 36A(1) (as added) (see the text and notes 1–3 supra): see reg 36A(3) (as added: see note 1 supra).

6 Ie under ibid reg 23(3), (4) (as amended) (see para 298 ante) (including reg 23(3), (4) as applied as mentioned in reg 28A(2) (as added) (see para 297 ante)): see reg 36A(3) (as added: see note 1 supra).

7 Ie under ibid reg 33 (as amended) (see para 314 ante): see reg 36A(3) (as added: see note 1 supra). As to the service or giving of notices generally see para 280 ante.

8 Ibid reg 36A(3) (as added: see note 1 supra).

9 As to references to a justice of the peace for these purposes see para 315 note 7 ante.

10 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 34(2) (reg 34(2)–(5) applied by reg 36A(4) (as added: see note 1 supra)).

The Magistrates' Courts Act 1980 s 127(1) (limitation of time) (see MAGISTRATES vol 29(2) (Reissue). para 589) does not apply to an application under the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 34 (as applied); but no application may be instituted in respect of a sum after the period of six years beginning with the day on which it became due under Pt V (as amended) (see para 292 et seq ante): reg 34(3) (as so applied).

A warrant must not be issued under the Magistrates' Courts Act 1980 s 55(2) (see MAGISTRATES vol 29(2) (Reissue) para 693) in any proceedings under the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 34 (as applied): reg 34(4) (as so applied). In relation to a summons issued under reg 34(2) see further reg 35(2), (2A) (reg 35(2A) as added); and para 315 ante.

11 Ibid reg 34(5) (as applied: see note 10 supra).

12 Ibid reg 34(5)(a) (as applied: see note 10 supra).

13 Ibid reg 34(5)(b) (as applied: see note 10 supra).

14 Ibid reg 34(5) (as applied: see note 10 supra).

15 Ie under ibid reg 36A(2) (as added) (see the text and note 4 supra): see reg 36A(5) (as added: see note 1 supra).

16 Ibid reg 36A(5) (as added: see note 1 supra).

17 Ibid reg 36A(5)(a) (as added: see note 1 supra).

18 Ibid reg 36A(5)(b) (as added: see note 1 supra).

(iii) Attachment of Earnings

324. Provision for attachment of earnings etc. Regulations made under the provisions that govern the recovery of sums which have become payable in respect of the council tax but have not been paid[1] may provide that where a magistrates' court has made a liability order[2] against a person (the 'debtor') and the debtor is an individual[3]:

(1) the authority concerned may make an order (an 'attachment of earnings order') to secure the payment of the appropriate amount[4];

(2) such an order must be expressed to be directed to a person who has the debtor in his employment[5], and is to operate as an instruction to such a person to make deductions from the debtor's earnings[6] and to pay the amounts deducted to the authority[7];

(3) the authority may serve a copy of the order on a person who appears to the authority to have the debtor in his employment[8]; and

(4) a person who has the debtor in his employment must comply with the order if a copy of it is served on him[9].

The regulations may include:

(a) provision allowing an attachment of earnings order to be varied[10];

(b) provision requiring a person who has the debtor in his employment to comply with the order as varied if a copy of the order as varied is served on him[11];

(c) provision requiring an order to be in a prescribed form[12];

(d) provision requiring an order to specify the sum to which the order relates, the rate at which the debtor's earnings are to be applied to meet the sum, and such other particulars as may be prescribed[13];

(e) rules about the rate which may be so specified[14];

(f) provision allowing the person who deducts and pays amounts under the order to deduct from the debtor's earnings prescribed sums (or sums determined in accordance with prescribed rules) towards his administrative costs[15];

(g) provision requiring the person who deducts and pays amounts under the order to notify the debtor, in a prescribed manner and at any prescribed time, of the total amount of sums (including sums towards administrative costs) deducted up to the time of the notification or of the total amount of sums (including sums towards such costs) that will fall to be deducted after that time[16];

(h) provision requiring any person on whom a copy of the order is served to notify the authority in a prescribed manner and within a prescribed period if he does not have, or subsequently ceases to have, the debtor in his employment[17];

(i) provision that, where the whole amount to which the order relates has been paid, the authority must give notice of that fact to any person who appears to it to have the debtor in his employment and who has been served with a copy of the order[18];

(j) provision allowing or requiring an order to be discharged[19].

The regulations may include provision that while an attachment of earnings order is in force:

(i) the debtor must from time to time notify the authority concerned, in a prescribed manner and within a prescribed period, of each occasion when he leaves any employment or becomes employed or re-employed, and must include in such a notification a statement of his earnings and expected earnings from the employment concerned and of such other matters as may be prescribed[20];

(ii) any person who becomes the debtor's employer and knows that the order is in force and by what authority it was made must notify the authority concerned, in a prescribed manner and within a prescribed period, that he is the debtor's employer, and must include in such a notification a statement of the debtor's earnings and expected earnings from the employment concerned and of such other matters as may be prescribed[21].

The regulations may include provision with respect to the priority to be accorded as between two or more orders made under the regulations[22]; and orders made under the regulations and orders made under the Attachment of Earnings Act 1971[23] or the Child Support Act 1991[24].

The regulations may include provision that a person may appeal to a magistrates' court if he is aggrieved by the making or the terms of an attachment of earnings order, or if there is a dispute whether payments constitute earnings or as to any other prescribed matter relating to the order[25]. The regulations also may include:

(A) provision prescribing the procedure to be followed for initiating an appeal[26];

(B) provision prescribing the procedure to be followed in dealing with an appeal[27];
(C) provision as to the powers of the court (which may include provision as to the quashing of an attachment of earnings order or the variation of the terms of such an order)[28].

1 Ie regulations under the Local Government Finance Act 1992 s 14(3), Sch 4 para 1(1) (prospectively amended) (see para 310 ante): see Sch 4 para 5(1). As to the making of regulations under the Local Government Finance Act 1992 generally see para 228 ante; and as to the regulations so made under Sch 4 para 1(1) (prospectively amended) see para 310 note 2 ante; and para 325 et seq post. As to council tax generally see para 227 et seq ante.

2 As to provision made for liability orders see para 313 et seq ante.

3 Local Government Finance Act 1992 Sch 4 para 5(1).

4 Ibid Sch 4 para 5(1)(a) (amended by the Local Government Act 2003 s 80(1), (2)). For these purposes, the appropriate amount is the aggregate of:

(1) any outstanding sum which is or forms part of the amount in respect of which the liability order was made (Local Government Finance Act 1992 Sch 4 para 5(1A)(a) (Sch 4 para 5(1A) added by the Local Government Act 2003 s 80(1), (3))); and

(2) where the authority concerned has sought to levy an amount by distress and sale of the debtor's goods under provision included by virtue of the Local Government Finance Act 1992 Sch 4 para 7 (as amended; prospectively repealed) (see para 334 post) and the person making the distress has reported that he was unable (for whatever reason) to find any or sufficient goods of the debtor on which to levy the amount (Sch 4 para 5(1A)(b) (as so added)): (a) such sum as is referred to in Sch 4 para 7(2)(b) (prospectively repealed) (see para 334 post) (Sch 4 para 5(1A)(b)(i) (as so added)); and (b) if the authority has applied for the issue of a warrant committing the debtor to prison under provision included by virtue of Sch 4 para 8 (prospectively amended) (see para 338 post), a sum (of a prescribed amount or an amount determined in accordance with prescribed rules) in respect of the costs of the application (Sch 4 para 5(1A)(b)(ii) (as so added)).

For these purposes, 'prescribed' means prescribed by regulations made (in relation to England) by the Secretary of State and (in relation to Wales) by the Welsh Ministers: Sch 4 para 20 (added by the Local Government Act 2003 s 127(1), Sch 7 paras 40, 54). See note 1 supra. For the meanings of 'England' and 'Wales' see para 1 note 2 ante. As to the Secretary of State and the Welsh Ministers see para 228 ante.

As from a day to be appointed under the Tribunals, Courts and Enforcement Act 2007 s 148(5), the Local Government Finance Act 1992 Sch 4 para 5(1A) (as added) is amended so that the appropriate amount becomes the aggregate of:

(i) any outstanding sum which is or forms part of the amount in respect of which the liability order was made (unless head (ii) infra applies) (Sch 4 para 5(1A)(a) (as so added; prospectively amended by the Tribunals, Courts and Enforcement Act 2007 s 62(3), Sch 13 paras 101, 107(1), (3)(a)));

(ii) where a person authorised to act under the power conferred by the Local Government Finance Act 1992 s 14(4) (prospectively added) (see para 313 note 3 ante) has reported to the authority concerned that he was unable (for whatever reason) to find sufficient goods of the debtor to pay the amount outstanding (Sch 4 para 5(1A)(b) (as so added; prospectively substituted by the Tribunals, Courts and Enforcement Act 2007 Sch 13 paras 101, 107(1), (3)(b))): (A) the amount outstanding at the time when the attachment of earnings order is made (Local Government Finance Act 1992 Sch 4 para 5(1A)(b)(i) (as so added; prospectively substituted by the Tribunals, Courts and Enforcement Act 2007 Sch 13 paras 101, 107(1), (3)(b))); and (B) if the authority has applied for the issue of a warrant committing the debtor to prison under provision included by virtue of the Local Government Finance Act 1992 Sch 4 para 8 (prospectively amended), a sum (of a prescribed amount or an amount determined in accordance with prescribed rules) in respect of the costs of the application (Sch 4 para 5(1A)(b)(ii) (as so added)).

For these purposes, 'amount outstanding' has the meaning given by the Tribunals, Courts and Enforcement Act 2007 s 62(1), Sch 12 para 50(3) (not yet in force): Local Government Finance Act 1992 Sch 4 para 5(9) (prospectively added by the Tribunals, Courts and Enforcement Act 2007 Sch 13 paras 101, 107(1), (3)(c)). At the date at which this volume states the law, no such day had been appointed.

5 The provisions of the Local Government Finance Act 1992 Sch 4 para 5 (as amended; prospectively further amended) (except Sch 4 para 5(3), (4)(b) (see the text and notes 20–21, 23–24 infra)) apply to elected members of billing authorities or relevant precepting authorities as they apply to persons in employment; and for the purposes of the application of those provisions in relation to any such members any reference to a person having the debtor in his employment must be construed as a reference to such an authority having the debtor as an elected member: Sch 4 para 5(7)(a). As to billing authorities see para 229 ante. For these purposes, a relevant precepting authority is a major precepting authority other than the Receiver for the Metropolitan Police District (Sch 4 para 5(8)(a)); and a person is an elected

member of a relevant precepting authority other than a county council if he is appointed to the authority by a constituent council of which he is an elected member (Sch 4 para 5(8)(b)). As to major precepting authorities and precepting authorities for these purposes see para 228 note 21 ante. As from a day to be appointed under the Greater London Authority Act 1999 s 425(2), the words 'other than the Receiver for the Metropolitan Police District' in the Local Government Finance Act 1992 Sch 4 para 5(8)(a) are repealed by the Greater London Authority Act 1999 s 423, Sch 34 Pt I. However, at the date at which this volume states the law, no such day had been appointed.

6 The provisions of the Local Government Finance Act 1992 Sch 4 para 5 (as amended; prospectively further amended) (except Sch 4 para 5(3), (4)(b) (see the text and notes 20–21, 23–24 infra)) apply to elected members of billing authorities or relevant precepting authorities as they apply to persons in employment; and for the purposes of the application of those provisions in relation to any such members any reference to the debtor's earnings must be construed as a reference to allowances payable to the debtor by such an authority: Sch 4 para 5(7)(b).

7 Ibid Sch 4 para 5(1)(b).

8 Ibid Sch 4 para 5(1)(c).

9 Ibid Sch 4 para 5(1)(d).

10 Ibid Sch 4 para 5(2)(a).

11 Ibid Sch 4 para 5(2)(b).

12 Ibid Sch 4 para 5(2)(c).

13 Ibid Sch 4 para 5(2)(d).

14 Ibid Sch 4 para 5(2)(e).

15 Ibid Sch 4 para 5(2)(f).

16 Ibid Sch 4 para 5(2)(g).

17 Ibid Sch 4 para 5(2)(h).

18 Ibid Sch 4 para 5(2)(i).

19 Ibid Sch 4 para 5(2)(j).

20 Ibid Sch 4 para 5(3)(a).

21 Ibid Sch 4 para 5(3)(b).

22 Ibid Sch 4 para 5(4)(a).

23 See ENFORCEMENT vol 17(1) (Reissue) para 272 et seq.

24 Local Government Finance Act 1992 Sch 4 para 5(4)(b). As to the Child Support Act 1991 see CHILDREN AND YOUNG PERSONS vol 5(3) (2008 Reissue) para 553 et seq.

25 Local Government Finance Act 1992 Sch 4 para 5(5). As to persons aggrieved see ADMINISTRATIVE LAW vol 1(1) (2001 Reissue) para 56.

26 Ibid Sch 4 para 5(6)(a).

27 Ibid Sch 4 para 5(6)(b).

28 Ibid Sch 4 para 5(6)(c).

325. Making of attachment of earnings order. Where a liability order[1] has been made and the debtor[2] against whom it was made is an individual, the authority which applied for the order may[3] make an order (an 'attachment of earnings order')[4] to secure the payment of the appropriate amount[5]. The authority may serve a copy of the order on a person who appears to the authority to have the debtor in his employment; and a person on whom it is so served who has the debtor in his employment must comply with it[6].

However, an attachment of earnings order may not be made by an authority if the effect would be that the number of orders for the time being in force made by that authority in relation to the debtor in question exceeded two[7].

1 For the meaning of 'liability order' see para 312 note 2 ante.

2 For the meaning of 'debtor' see para 317 note 2 ante.

3 Ie subject to the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 37(4) (as added) (see the text and note 7 infra): see reg 37(1) (as amended: see note 5 infra).

4 Ie an order under ibid reg 37 (as amended): see regs 32(1), 37(1) (as amended: see note 5 infra); and para 312 note 8 ante. Such an order:

(1) must be in the form specified in (and accordingly contain the matters specified in) reg 37 (as amended), Sch 3 (amended by SI 1992/1741; SI 1992/3008; SI 1993/773; SI 1999/534; and in relation to England by SI 2007/501) (form of attachment of earnings order) (Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 37(2)(a)); and

(2) must remain in force until discharged under reg 41(2) (see para 329 post) or until the whole amount to which it relates has been paid (whether by attachment of earnings or otherwise) (reg 37(2)(b)).

As to the application of reg 37 (as amended) to Pt V (regs 17–31) (as amended) (see para 292 et seq ante) see para 314 note 4 ante.

5 Ibid reg 37(1) (amended by SI 1998/295; in relation to Wales by SI 2004/785; in relation to England by SI 2004/927). For these purposes, the appropriate amount is the aggregate of:

(1) any outstanding sum which is or forms part of the amount in respect of which the liability order was made (Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 37(1A)(a) (reg 37(1A) added in relation to Wales by SI 2004/785; in relation to England by SI 2004/927)); and

(2) where the authority concerned has sought to levy an amount by distress and sale of the debtor's goods under the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 45 (as amended) (see para 335 post) and the person making the distress has reported that he was unable (for whatever reason) to find any or sufficient goods of the debtor on which to levy the amount (reg 37(1A)(b) (as so added)): (a) a sum determined in accordance with reg 45(2)(b), Sch 5 (as substituted and amended) (see para 335 post) in respect of charges connected with the distress (reg 37(1A)(b)(i) (as so added)); and (b) if the authority has applied for the issue of a warrant committing the debtor to prison in accordance with reg 47 (as amended) (see para 339 post), the authority's reasonable costs incurred up to the time of the making of the order under reg 37 (as amended), in making one or more of the applications referred to in reg 47(6A), (6B) (as added), Sch 6 (as added and amended) (see para 339 post), but not exceeding the amount specified for that application in Sch 6 (as added and amended) (reg 37(1A)(b)(ii) (as so added)).

6 Ibid reg 37(3).

7 Ibid reg 37(4) (added by SI 1998/295).

326. Deductions under attachment of earnings order. The sum to be deducted by an employer under an attachment of earnings order[1] on any pay-day is to be[2]:

(1) where the debtor's[3] earnings[4] from the employer are payable weekly, a sum equal to the appropriate percentage of the net earnings[5] otherwise payable on that pay-day[6];

(2) where his earnings from the employer are payable monthly, a sum equal to the appropriate percentage of the net earnings otherwise payable on that pay-day[7];

(3) where his earnings from the employer are payable at regular intervals of a whole number of weeks or months, the sum arrived at by:

(a) calculating what would be his weekly or monthly net earnings by dividing the net earnings payable to him by the employer on the pay-day by that whole number (of weeks or months, as the case may be)[8];

(b) ascertaining the specified percentage (or percentages)[9] within which the notional net earnings calculated under head (3)(a) above fall[10]; and

(c) calculating the sum which equals the appropriate percentage (or percentages) of the notional net earnings for any of those weeks or months and multiplying that sum by the whole number of weeks or months, as appropriate[11].

Where a sum is to be deducted by an employer under an attachment of earnings order in this way and the amount to be paid to the debtor on any pay-day includes an advance in respect of future pay, the sum to be deducted on that pay-day is the aggregate of the amount which would otherwise fall to be deducted[12], and:

(i) where the amount advanced would otherwise have been paid on a single pay-day, the sum which would have been deducted on that pay-day[13] if the amount advanced had been the amount of net earnings on that day[14]; or

(ii) where the amount advanced would otherwise have been paid on more than one pay-day, the sums which would have been deducted on each of the relevant pay-days[15] if an equal proportion of the amount advanced had been paid on

each of those days[16] and if the net earnings of the debtor on each of those days had been an amount equal to that proportion[17].

Where the debtor's earnings from the employer are payable at regular intervals other than at the intervals mentioned above[18], the sum to be deducted on any pay-day is to be arrived at by[19]:

(A) calculating what would be his daily net earnings by dividing the net earnings payable to him by the employer on the pay-day by the number of days in the interval[20];

(B) ascertaining the specified percentage (or percentages)[21] within which the notional net earnings calculated under head (A) above fall[22]; and

(C) calculating the sum which equals the appropriate percentage (or percentages) of the notional daily net earnings and multiplying that sum by the number of days in the interval[23].

Where the debtor's earnings are payable at such intervals[24], and the amount to be paid to the debtor on any pay-day includes an amount advanced in respect of future pay, the amount of the debtor's notional net earnings under head (A) above must be calculated in accordance with the formula:

$$\frac{(A+B)}{(C+D)}$$

where A is the amount of net earnings payable to him on that pay-day (exclusive of the amount advanced); B is the amount advanced; C is the number of days in the period for which the amount of net earnings is payable; and D is the number of days in the period for which, but for the agreement to pay in advance, the amount advanced would have been payable[25].

Where the debtor's earnings from the employer are payable at irregular intervals, the sums to be deducted on any pay-day are arrived at by[26]:

(aa) calculating what would be his daily net earnings by dividing the net earnings payable to him by the employer on the pay-day by the number of days since earnings were last payable by the employer to him[27], or (if the earnings are the first earnings to be payable by the employer to him with respect to the employment in question) by the number of days since he began the employment[28];

(bb) ascertaining the specified percentage (or percentages)[29] within which the notional net earnings calculated under head (aa) above fall[30]; and

(cc) calculating the sum which equals the appropriate percentage (or percentages) of the daily net earnings and multiplying that sum by the same number as that of the divisor for the purposes of the calculation mentioned in head (aa) above[31].

Where on the same pay-day there are payable to the debtor by the employer both earnings payable at regular intervals and earnings payable at irregular intervals, for the purpose of arriving at the sum to be deducted on the pay-day under the above provisions all the earnings must be aggregated and treated as earnings payable at the regular interval[32]. Where there are earnings payable to the debtor by the employer at regular intervals on one pay-day, and earnings are payable by the employer to him at irregular intervals on a different pay-day, the sum to be deducted on each of the pay-days on which the earnings which are payable at irregular intervals are so payable must be 20 per cent of the net earnings payable to him on the day[33].

1 For the meaning of 'attachment of earnings order' see para 312 note 8 ante. As to the making of such orders see para 325 ante.

2 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 38(1).

As to the application of reg 38 (as amended) to Pt V (regs 17–31) (as amended) (see para 292 et seq ante) see para 314 note 4 ante.

3 For the meaning of 'debtor' see para 317 note 2 ante.
4 For the meaning of 'earnings' for these purposes see para 317 note 4 ante.
5 For the meaning of 'net earnings' for these purposes see para 317 note 4 ante.
6 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 38(1)(a) (amended by SI 1992/3008). For this purpose, the appropriate percentage is the percentage (or percentages) specified in the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 38 (as amended), Sch 4 Table A col 2 (Sch 4 substituted by SI 1998/295; the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, Sch 4 Table A col 2 amended in relation to England by SI 2006/3395; in relation to Wales by SI 2007/582) in relation to the band in the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, Sch 4 Table A col 1 (Sch 4 as so substituted; Sch 4 Table A col 1 amended in relation to England by SI 2006/3395; SI 2007/501; in relation to Wales by SI 2007/582) within which the net earnings fall: see the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 38(1)(a) (as so amended).
7 Ibid reg 38(1)(b) (amended by SI 1992/3008). For this purpose, the appropriate percentage is the percentage (or percentages) specified in the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, Sch 4 Table B col 2 (Sch 4 as substituted (see note 6 supra); Sch 4 Table B col 2 amended in relation to England by SI 2006/3395; in relation to Wales by SI 2007/582) in relation to the band in the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, Sch 4 Table B col 1 (Sch 4 as so substituted; Sch 4 Table B col 1 amended in relation to England by SI 2006/3395; in relation to Wales by SI 2007/582) within which the net earnings fall: see the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 38(1)(b) (as so amended).
8 Ibid reg 38(1)(c)(i).
9 Ie the percentage (or percentages) specified in ibid Sch 4 Table A col 2 (as substituted and amended: see note 6 supra) opposite the band in Sch 4 Table A col 1 (as substituted and amended: see note 6 supra) (if the whole number is of weeks) or the percentage (or percentages) specified in Sch 4 Table B col 2 (as substituted and amended: see note 7 supra) opposite the band in Sch 4 Table B col 1 (as substituted and amended: see note 7 supra) (if the whole number is of months): see reg 38(1)(c)(ii).
10 Ibid reg 38(1)(c)(ii).
11 Ibid reg 38(1)(c)(iii). Where the amount payable to the debtor on any pay-day is reduced by reason of an earlier advance of pay, the net earnings of the debtor on that day must, for the purposes of reg 38(1) (as amended), be the amount defined in reg 32(1) (definition as amended) (see para 317 note 4 ante) less the amount of the deduction: reg 38(3) (amended by SI 1995/22).
12 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 38(2). The text refers to the aggregate of the amount which would otherwise fall to be deducted under reg 38(1) (as amended) (see the text and notes 1–11 supra): see reg 38(2).
13 Ie in accordance with ibid reg 38(1) (as amended) (see the text and notes 1–11 supra): see reg 38(2)(a) (as amended: see note 14 infra).
14 Ibid reg 38(2)(a) (amended by SI 1992/3008).
15 Ie in accordance with the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 38(1) (as amended) (see the text and notes 1–11 supra): see reg 38(2)(b).
16 Ibid reg 38(2)(b)(i) (amended by SI 1992/3008).
17 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 38(2)(b)(ii).
18 Ie the intervals to which ibid reg 38(1) (as amended) (see the text and notes 1–11 supra) applies: see reg 38(4).
19 Ibid reg 38(4). Regulation 38(3) (as amended) (see note 11 supra) applies in relation to reg 38(4) as it applies in relation to reg 38(1) (as amended) (see the text and notes 1–11 supra): reg 38(6).
20 Ibid reg 38(4)(a).
21 Ie the percentage (or percentages) specified in ibid Sch 4 Table C col 2 (Sch 4 as substituted (see note 6 supra); Sch 4 Table C col 2 amended in relation to England by SI 2006/3395; in relation to Wales by SI 2007/582) opposite the band in the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, Sch 4 Table C col 1 (Sch 4 as so substituted; Sch 4 Table C col 1 amended in relation to England by SI 2006/3395; in relation to Wales by SI 2007/582): see the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 38(4)(b).
22 Ibid reg 38(4)(b).
23 Ibid reg 38(4)(c).
24 Ie at the intervals mentioned in ibid reg 38(4) (see the text and notes 18–23 supra): see reg 38(5).
25 Ibid reg 38(5). Where earnings are payable to a debtor by the employer by two or more series of payments at regular intervals:
(1) if some or all of the intervals are of different lengths (reg 38(7)(a)):
(a) for the purpose of arriving at the sum to be deducted, whichever of reg 38(1), (2), (3), (4), (5) and (6) (reg 38(1)–(3) as amended) (see also the text and notes 1–24 supra) is appropriate

applies to the series with the shortest interval (or, if there is more than one series with the shortest interval, such one of those series as the employer may choose) (reg 38(7)(a)(i)); and

(b) in relation to the earnings payable in every other series, the sum to be deducted is to be 20% of the net earnings or, where on any pay-day an amount advanced is also paid, 20% of the aggregate of the net earnings and the amount advanced (reg 38(7)(a)(ii));

(2) if all of the intervals are of the same length, whichever of reg 38(1), (2), (3), (4), (5) and (6) (reg 38(1)–(3) as amended) is appropriate applies to such series as the employer may choose and reg 38(7)(a)(ii) (see head (1)(b) supra) applies to every other series (reg 38(7)(b)).

Regulation 38(3) (as amended) (see note 11 supra) applies in relation to reg 38(7)(a)(ii) (see head (1)(b) supra) as it applies in relation to reg 38(1) (as amended) (see the text and notes 1–11 supra): reg 38(7).

26 Ibid reg 38(8).

27 Ibid reg 38(8)(a)(i).

28 Ibid reg 38(8)(a)(ii).

29 Ie the percentage (or percentages) specified in ibid Sch 4 Table C col 2 (as substituted and amended: see note 21 supra) opposite the band in Table C col 1 (as substituted and amended: see note 21 supra): see reg 38(8)(b).

30 Ibid reg 38(8)(b).

31 Ibid reg 38(8)(c).

32 Ibid reg 38(9).

33 Ibid reg 38(10).

327. Ancillary powers and duties of employers and others served. An employer who deducts and pays amounts under an attachment of earnings order[1] may, on each occasion that he makes such a deduction, also deduct from the debtor's[2] earnings[3] the sum of one pound towards his administrative costs[4].

An employer who deducts and pays amounts under an attachment of earnings order must notify the debtor in writing of[5]:

(1) the total amount of the sums (including such sums deducted towards administrative costs) deducted under the order up to the time of the notification[6]; or

(2) the total amount of the sums (including such sums deducted towards administrative costs) that will fall to be so deducted after that time[7].

Such a notification must be given at the time that the pay statement given by the employer to the debtor next after a deduction has been made is so given, or, if no such statements are usually issued by the employer, as soon as practicable after a deduction has been made[8].

A person on whom a copy of an attachment of earnings order has been served must notify in writing the authority which made the order if he does not have the debtor against whom it was made in his employment or the debtor subsequently ceases to be in his employment[9]. Such a notification must be given within 14 days of the day on which the copy of the order was served on him or the debtor ceased to be in his employment (as the case may be)[10].

While an attachment of earnings order is in force, any person who becomes the debtor's employer and knows that the order is in force and by what authority it was made must notify that authority in writing that he is the debtor's employer[11]. Such a notification must be given within 14 days of the day on which the debtor became the person's employee or of the day on which the person first knows that the order is in force and the identity of the authority by which it was made, whichever is the later[12].

1 For the meaning of 'attachment of earnings order' see para 312 note 8 ante. As to deductions made by an employer under such orders see para 326 ante.

2 For the meaning of 'debtor' see para 317 note 2 ante.

3 For the meaning of 'earnings' for these purposes see para 317 note 4 ante.

4 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 39(1).

As to the application of reg 39 to Pt V (regs 17–31) (as amended) (see para 292 et seq ante) see para 314 note 4 ante.

5 Ibid reg 39(2). As to the service or giving of notices generally see para 280 ante.

6 Ibid reg 39(2)(a).
7 Ibid reg 39(2)(b).
8 Ibid reg 39(3).
9 Ibid reg 39(4).
10 Ibid reg 39(5).
11 Ibid reg 39(6).
12 Ibid reg 39(7).

328. Duties of debtor. While an attachment of earnings order[1] is in force, the debtor[2] in respect of whom the order has been made must notify in writing the authority which made it of each occasion when he leaves an employment or becomes employed or re-employed, and (in a case where he becomes so employed or re-employed) must include in the notification a statement of[3]:

(1) his earnings[4] and (so far as he is able) expected earnings from the employment concerned[5];
(2) the deductions and (so far as he is able) expected deductions from such earnings:
  (a) in respect of income tax[6];
  (b) in respect of primary Class 1 contributions under Part I of the Social Security Contributions and Benefits Act 1992[7];
  (c) for the purposes of a superannuation scheme[8];
(3) the name and address of the employer[9]; and
(4) his work or identity number in the employment (if any)[10].

Such notification must be given within 14 days of the day on which the debtor leaves or commences (or recommences) the employment (as the case may be), or (if later) the day on which he is informed by the authority that the order has been made[11].

1 For the meaning of 'attachment of earnings order' see para 312 note 8 ante. As to the making of such orders see para 325 ante.
2 For the meaning of 'debtor' see para 317 note 2 ante.
3 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 40(1). As to the service or giving of notices generally see para 280 ante.
As to the application of reg 40 to Pt V (regs 17–31) (as amended) (see para 292 et seq ante) see para 314 note 4 ante.
4 For the meaning of 'earnings' for these purposes see para 317 note 4 ante.
5 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 40(1)(a).
6 Ibid reg 40(1)(b)(i).
7 Ibid reg 40(1)(b)(ii). The text refers to primary Class 1 contributions under the Social Security Contributions and Benefits Act 1992 Pt I (ss 1–19A) (as amended) (see SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) para 34 et seq): see the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 40(1)(b)(ii).
8 Ibid reg 40(1)(b)(iii). The text refers to such a superannuation scheme as is mentioned in the definition of 'net earnings' in reg 32(1) (definition as amended) (see para 317 note 4 ante): see reg 40(1)(b)(iii).
9 Ibid reg 40(1)(c).
10 Ibid reg 40(1)(d).
11 Ibid reg 40(2).

329. Ancillary powers and duties of authority. Where the whole amount to which an attachment of earnings order[1] relates has been paid (whether by attachment of earnings or otherwise), the authority by which it was made must give notice of the fact to any person who appears to it to have the debtor[2] in his employment and who has been served with a copy of the order[3].

The authority by which an attachment of earnings order was made may, on its own account or on the application of the debtor or an employer of the debtor, make an order discharging the attachment of earnings order; and if it does so it must give notice of that fact to any person who appears to it to have the debtor in his employment and who has been served with a copy of the order[4].

1 For the meaning of 'attachment of earnings order' see para 312 note 8 ante. As to the making of such orders see para 325 ante.
2 For the meaning of 'debtor' see para 317 note 2 ante.
3 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 41(1). If an authority serves a copy of an attachment of earnings order in accordance with reg 37(3) (see para 325 ante), it must (unless it has previously done so) also serve a copy of the order on the debtor: reg 41(3). As to the service or giving of notices generally see para 280 ante.

As to the application of reg 41 to Pt V (regs 17–31) (as amended) (see para 292 et seq ante) see para 314 note 4 ante.
4 Ibid reg 41(2).

330. Priority as between orders. Where an employer would otherwise[1] be obliged to make deductions on any pay-day under more than one attachment of earnings order[2], he must[3]:

(1) deal with the orders according to the respective dates on which they were made, disregarding any later order until an earlier one has been dealt with[4]; and
(2) deal with any later order as if the earnings[5] to which it relates were the residue of the debtor's[6] earnings after the making of any deduction to comply with any earlier order[7].

Where an employer would otherwise[8] be obliged to comply with one or more attachment of earnings orders and with one or more deduction orders[9], he must deal with the orders according to the respective dates on which they were made in like manner as under heads (1) and (2) above[10].

An employer must not deal with a deduction order made either wholly or in part in respect of the payment of a judgment debt[11] or payments under an administration order[12] until he has dealt with the attachment of earnings order or orders and any other deduction order[13].

1 Ie but for the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 42(1) (as substituted and amended): see reg 42(1) (as substituted and amended: see note 3 infra).
2 For the meaning of 'attachment of earnings order' see para 312 note 8 ante. As to deductions made by an employer under such orders see para 326 ante.
3 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 42(1) (reg 42 substituted by SI 1992/3008; the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 42(1) amended by SI 1999/534).

As to the application of the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 42 (as substituted and amended) to Pt V (regs 17–31) (as amended) (see para 292 et seq ante) see para 314 note 4 ante.
4 Ibid reg 42(1)(a) (as substituted: see note 3 supra).
5 For the meaning of 'earnings' for these purposes see para 317 note 4 ante.
6 For the meaning of 'debtor' see para 317 note 2 ante.
7 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 42(1)(b) (as substituted: see note 3 supra).
8 Ie but for ibid reg 42(2) (as substituted): see reg 42(2) (as substituted: see note 3 supra).
9 For these purposes, 'deduction order' means an order under the Attachment of Earnings Act 1971 (see ENFORCEMENT vol 17(1) (Reissue) para 272 et seq) or the Child Support Act 1991 s 31(2) (as amended) (see CHILDREN AND YOUNG PERSONS vol 5(3) (2008 Reissue) para 559): Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 42(4) (as substituted: see note 3 supra).
10 Ibid reg 42(2) (as substituted: see note 3 supra).
11 As to judgment debt generally see ENFORCEMENT vol 17(1) (Reissue) para 13 et seq.
12 As to administration orders generally see BANKRUPTCY AND INDIVIDUAL INSOLVENCY vol 3(2) (2002 Reissue) para 893 et seq.
13 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 42(3) (as substituted: see note 3 supra).

331. Persons employed under the Crown. Where a debtor[1] is in the employment of the Crown and an attachment of earnings order[2] is made in respect of him, then for the purposes of the council tax enforcement provisions[3]:

(1) the chief officer for the time being of the department, office or other body in which the debtor is employed must be treated as having the debtor in his employment (any transfer of the debtor from one department, office or body to another being treated as a change of employment)[4]; and

(2) any earnings paid by the Crown or a Minister of the Crown, or out of the public revenue of the United Kingdom, must be treated as paid by that chief officer[5].

If any question arises as to what department, office or other body is concerned for these purposes, or as to who for these purposes is its chief officer, the question must be referred to and determined by the Minister for the Civil Service[6]. A document purporting to set out such a determination of the Minister and to be signed by an official of the Office of that Minister is, in any proceedings arising in relation to an attachment of earnings order, admissible in evidence and is deemed to contain an accurate statement of such a determination unless the contrary is shown[7].

1 For the meaning of 'debtor' see para 317 note 2 ante.

2 For the meaning of 'attachment of earnings order' see para 312 note 8 ante. As to the making of such orders see para 325 ante.

3 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 43(1). The text refers to the purposes of the provisions contained in Pt VI (regs 32–57) (as amended) (see paras 314 et seq ante, 332 et seq post): see reg 43(1). The provisions of Pt VI (as amended) have effect in relation to attachment of earnings orders notwithstanding any enactment passed before 29 May 1970 and preventing or avoiding the attachment or diversion of sums due to a person in respect of services under the Crown, whether by way of remuneration, pension or otherwise: reg 43(4).

As to the application of reg 43 to Pt V (regs 17–31) (as amended) (see para 292 et seq ante) see para 314 note 4 ante.

4 Ibid reg 43(1)(a).

5 Ibid reg 43(1)(b). For the meaning of 'United Kingdom' see para 127 note 20 ante.

6 Ibid reg 43(2). As to the Minister for the Civil Service see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) paras 427, 549 et seq.

7 Ibid reg 43(3).

332. Attachment of allowances orders. Where a liability order[1] has been made and the debtor[2] against whom it was made is an elected member of a relevant billing authority[3] or an elected member of a relevant precepting authority[4], the authority which applied for the order may make an order (an 'attachment of allowances order')[5] to secure the payment of any outstanding sum which is or forms part of the amount in respect of which the liability order was made[6]. Such an order must be expressed to be directed to the authority of whom the debtor is an elected member and must operate as an instruction to the authority to make deductions from attachable allowances[7] payable to the debtor and to pay the sums so deducted to the authority by which the order was made[8]. Such an order remains in force until discharged or until the whole sum to which it relates has been paid (whether by attachment of allowances or otherwise)[9].

The sum to be deducted by an authority under such an order on any day must be a sum equal to 40 per cent of the aggregate of attachable allowances payable to the debtor on that day[10].

1 For the meaning of 'liability order' see para 312 note 2 ante.

2 For the meaning of 'debtor' see para 317 note 2 ante.

3 For these purposes, a relevant billing authority is a billing authority other than the Common Council of the City of London: Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 44(2)(a). As to billing authorities see para 229 ante; and as to what constitutes the Common Council of the City of London for these purposes see para 229 note 4 ante.

4 A relevant precepting authority is a major precepting authority other than the Receiver for the Metropolitan Police District: ibid reg 44(2)(b). A person is an elected member of a relevant precepting authority other than a county council if he is appointed to the authority by a constituent council of

which he is an elected member: reg 44(2)(c). As to major precepting authorities and precepting authorities for these purposes see para 228 note 21 ante.

5 Ie an order under ibid reg 44: see reg 32(1); and para 312 note 7 ante.

6 Ibid reg 44(1), (3).

As to the application of reg 44 to Pt V (regs 17–31) (as amended) (see para 292 et seq ante) see para 314 note 4 ante.

7 References to attachable allowances are references to the allowances referred to in ibid reg 44(7)(b) (see head (2) infra): see reg 44(2)(d). Regulation 37(3) (see para 325 ante), reg 39(1)–(5) (see para 327 ante) and reg 41(1), (2) (see para 329 ante) apply to orders under reg 44 as they apply to attachment of earnings orders as if any reference in those provisions:

(1) to an employer or a person having the debtor in his employment, were a reference to a relevant billing authority or a relevant precepting authority having the debtor as an elected member (reg 44(7)(a));

(2) to the debtor's earnings, were a reference to allowances: (a) payable to the debtor in accordance with a scheme under regulations under the Local Government and Housing Act 1989 s 18 (as amended) (schemes for basic, attendance and special responsibility allowances for local authority members) (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 177) (Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 44(7)(b)(i)); or (b) in the nature of an attendance allowance, payable to the debtor under the Local Government Act 1972 s 175 (as amended) (allowances for attending conferences and meetings) (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 194) (Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 44(7)(b)(ii));

(3) to an attachment of earnings order (reg 44(7)(c)),

were a reference to an order under reg 44 (reg 44(7)). For the meaning of 'attachment of earnings order' see para 312 note 8 ante. As to the making of such orders see para 325 ante. For the meaning of 'earnings' for these purposes see para 317 note 4 ante.

8 Ibid reg 44(4).

9 Ibid reg 44(5).

10 Ibid reg 44(6).

333. Provision for deductions from income support. Regulations made under the provisions that govern the recovery of sums which have become payable in respect of the council tax but have not been paid[1] may provide that where a magistrates' court has made a liability order[2] against a person (the 'debtor') and the debtor is entitled to income support, a jobseeker's allowance or state pension credit[3]:

(1) the authority concerned may apply to the Secretary of State[4] asking him to deduct sums from any amounts payable to the debtor by way of that benefit, in order to secure the payment of any outstanding sum which is or forms part of the amount in respect of which the liability order was made[5]; and

(2) the Secretary of State may deduct such sums and pay them to the authority towards satisfaction of any such outstanding sum[6].

The regulations may include:

(a) provision allowing or requiring adjudication as regards an application, and provision as to appeals and reviews[7];

(b) a scheme containing provision as to the circumstances and manner in which and times at which sums are to be deducted and paid, provision about the calculation of such sums (which may include provision to secure that amounts payable to the debtor by way of income support, a jobseeker's allowance or state pension credit do not fall below prescribed[8] figures), and provision as to the circumstances in which the Secretary of State is to cease making deductions[9];

(c) provision requiring the Secretary of State to notify the debtor, in a prescribed manner and at any prescribed time, of the total amount of sums deducted up to the time of the notification[10];

(d) provision that, where the whole amount to which the application relates has been paid, the authority must give notice of that fact to the Secretary of State[11].

1 Ie regulations under the Local Government Finance Act 1992 s 14(3), Sch 4 para 1(1) (prospectively amended) (see para 310 ante): see Sch 4 para 6(1) (as amended: see note 3 infra). As to the making of

regulations under the Local Government Finance Act 1992 generally see para 228 ante; and as to the regulations so made under Sch 4 para 1(1) (prospectively amended) see para 310 note 2 ante. As to council tax generally see para 227 et seq ante.

2 As to provision made for liability orders see para 313 et seq ante.

3 Local Government Finance Act 1992 Sch 4 para 6(1) (amended by the Jobseekers Act 1995 s 41(4), (5), Sch 2 para 75(1), (2)(a), (2)(b), Sch 3; and the State Pension Credit Act 2002 s 14, Sch 2 Pt 3 paras 32, 33(1), (2)). As to income support see SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) para 176 et seq; as to jobseeker's allowance see SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) para 258 et seq; and as to state pension credit see SOCIAL SECURITY AND PENSIONS.

As from a day to be appointed under the Welfare Reform Act 2007 s 70(2), the Local Government Finance Act 1992 Sch 4 para 6(1) (as amended) is further amended so that the reference to 'state pension credit' becomes a reference to 'state pension credit or an employment and support allowance': see Sch 4 para 6(1) (as so amended; prospectively further amended by the Welfare Reform Act 2007 s 28(1), Sch 3 para 11(1), (2)(a)). At the date at which this volume states the law, no such day had been appointed.

4 As to the Secretary of State see para 228 ante. The power of the Secretary of State under the Local Government Finance Act 1992 Sch 4 para 6 (as amended; prospectively further amended) is not transferred to the Welsh Ministers: see para 228 ante.

5 Ibid Sch 4 para 6(1)(a) (amended by the Jobseekers Act 1995 Sch 2 para 75(1), (2)(c)).

6 Local Government Finance Act 1992 Sch 4 para 6(1)(b).

7 Ibid Sch 4 para 6(2)(a).

As from a day to be appointed under the Social Security Act 1998 s 87(2), head (a) in the text is amended so that the reference to 'appeals and reviews' becomes a reference to 'appeals to appeal tribunals constituted under the Social Security Act 1998 Pt I Ch I (ss 1–7) (as amended; prospectively further amended) and decisions under s 9 or s 10 (s 10 as amended) (see SOCIAL SECURITY AND PENSIONS)': see the Local Government Finance Act 1992 Sch 4 para 6(2)(a) (prospectively amended by the Social Security Act 1998 s 86(1), Sch 7 para 117). At the date at which this volume states the law, no such day had been appointed in relation to council tax benefit.

8 For these purposes, 'prescribed' means prescribed by regulations made by the Secretary of State: see the Local Government Finance Act 1992 s 116(1); and note 4 supra. See also note 1 supra.

9 Ibid Sch 4 para 6(2)(b) (amended by the Jobseekers Act 1995 Sch 2 para 75; and the State Pension Credit Act 2002 Sch 2 Pt 3 paras 32, 33(1), (3)).

As from a day to be appointed under the Welfare Reform Act 2007 s 70(2), head (b) in the text is further amended so that the reference to 'state pension credit' becomes a reference to 'state pension credit or an employment and support allowance': see the Local Government Finance Act 1992 Sch 4 para 6(2)(b) (as so amended; prospectively amended by the Welfare Reform Act 2007 s 28(1), Sch 3 para 11(1), (2)(a)). At the date at which this volume states the law, no such day had been appointed.

10 Local Government Finance Act 1992 Sch 4 para 6(2)(c).

11 Ibid Sch 4 para 6(2)(d).

(iv) Distress

334. Provision for distress. Until a day to be appointed, the following provisions have effect[1].

Regulations made under the provisions that govern the recovery of sums which have become payable in respect of the council tax but have not been paid[2] may provide that where a magistrates' court has made a liability order[3] against a person (the 'debtor') the authority concerned may levy the appropriate amount[4] by distress and sale of the debtor's goods[5]. The regulations may include provision that:

(1) a distress may be made anywhere in England and Wales[6];

(2) a distress is not to be deemed unlawful on account of any defect or want of form in the liability order and no person making a distress is to be deemed a trespasser on that account[7];

(3) no person making a distress is to be deemed a trespasser from the beginning on account of any subsequent irregularity in making the distress, but a person sustaining special damage by reason of the irregularity may recover full satisfaction for the special damage (and no more) by proceedings in trespass or otherwise[8];

(4) no person may make a distress unless he is an officer of the authority concerned, or he is a person of a prescribed description and any prescribed conditions are fulfilled[9];

(5) no person making a distress is to seize goods of a prescribed description[10].

The regulations also may include provision with respect to the supply of information to the debtor by a person who makes (or attempts to make) a distress[11] or, where it has levied any amount by distress, the authority concerned[12].

The regulations may include provision that a person may appeal to a magistrates' court if he is aggrieved by the levy of (or an attempt to levy) a distress[13]. The regulations also may include:

(a) provision prescribing the procedure to be followed for initiating an appeal[14];

(b) provision prescribing the procedure to be followed in dealing with an appeal[15];

(c) provision as to the powers of the court (which may include provision as to the discharge of goods distrained or the payment of compensation in respect of goods distrained and sold)[16].

1 As from a day to be appointed under the Tribunals, Courts and Enforcement Act 2007 s 148(5), the Local Government Finance Act 1992 s 14(3), Sch 4 para 7 (as amended) is repealed by the Tribunals, Courts and Enforcement Act 2007 ss 62(3), 146, Sch 13 paras 101, 107(1), (4), Sch 23 Pt 3. However, at the date at which this volume states the law, no such day had been appointed. See further paras 310, 313 note 3 ante.

2 As to provision made for liability orders see para 313 et seq ante.

3 Ie regulations under the Local Government Finance Act 1992 Sch 4 para 1(1) (prospectively amended) (see para 310 ante): see Sch 4 para 7(1). See note 1 supra. As to the making of regulations under the Local Government Finance Act 1992 generally see para 228 ante; and as to the regulations so made under Sch 4 para 1(1) (prospectively amended) see para 310 note 2 ante; and see para 335 et seq post. As to council tax generally see para 227 et seq ante.

4 For these purposes, the appropriate amount is the aggregate of:

(1) an amount equal to any outstanding sum which is or forms part of the amount in respect of which the liability order was made (ibid Sch 4 para 7(2)(a)); and

(2) a sum (of a prescribed amount or an amount determined in accordance with prescribed rules) in respect of the charges connected with the distress (Sch 4 para 7(2)(b)).

For these purposes, 'prescribed' means prescribed by regulations made (in relation to England) by the Secretary of State and (in relation to Wales) by the Welsh Ministers: Sch 4 para 20 (added by the Local Government Act 2003 s 127(1), Sch 7 paras 40, 54). See note 1 supra. For the meanings of 'England' and 'Wales' see para 1 note 2 ante. As to the Secretary of State and the Welsh Ministers see para 228 ante.

5 Local Government Finance Act 1992 Sch 4 para 7(1). See note 1 supra.

6 Ibid Sch 4 para 7(3)(a). See note 1 supra.

7 Ibid Sch 4 para 7(3)(b). See note 1 supra.

8 Ibid Sch 4 para 7(3)(c). See note 1 supra.

9 Ibid Sch 4 para 7(4)(a). See note 1 supra.

10 Ibid Sch 4 para 7(4)(b). See note 1 supra.

11 Ibid Sch 4 para 7(4A)(a) (Sch 4 para 7(4A) added by the Local Government Act 2003 s 80(1), (4)). See note 1 supra.

12 Local Government Finance Act 1992 Sch 4 para 7(4A)(b) (as added: see note 11 supra). See note 1 supra.

13 Ibid Sch 4 para 7(5). See note 1 supra. As to persons aggrieved see ADMINISTRATIVE LAW vol 1(1) (2001 Reissue) para 56.

14 Ibid Sch 4 para 7(6)(a). See note 1 supra.

15 Ibid Sch 4 para 7(6)(b). See note 1 supra.

16 Ibid Sch 4 para 7(6)(c). See note 1 supra.

335. Distress. Where a liability order[1] has been made, the authority which applied for the order may[2] levy the appropriate amount[3] by distress and sale of the goods of the debtor[4] against whom the order was made[5]. However, no person making a distress may seize any goods of the debtor of the following descriptions:

(1) such tools, books, vehicles and other items of equipment as are necessary to the debtor for use personally by him in his employment, business or vocation[6];

(2) such clothing, bedding, furniture, household equipment and provisions as are necessary for satisfying the basic domestic needs of the debtor and his family[7].

If, before any goods are seized, the appropriate amount (including charges arising up to the time of the payment or tender) is paid or tendered to the authority, the authority must accept the amount and the levy must not be proceeded with[8]. Where an authority has seized goods of the debtor in pursuance of the distress, but before sale of those goods the appropriate amount (including charges arising up to the time of the payment or tender) is paid or tendered to the authority, the authority must accept the amount, the sale must not be proceeded with and the goods must be made available for collection by the debtor[9].

The person levying distress on behalf of an authority must carry with him the written authorisation of the authority, which he must show to the debtor if so requested; and he must hand to the debtor or leave at the premises where the distress is levied a copy of the pertinent statutory provisions[10] and a memorandum setting out the appropriate amount, and he must also hand to the debtor a copy of any close or walking possession agreement entered into[11].

A distress may be made anywhere in England and Wales[12].

A distress is not to be deemed unlawful on account of any defect or want of form in the liability order, and no person making a distress is deemed a trespasser on that account; and no person making a distress is deemed a trespasser from the beginning on account of any subsequent irregularity in making the distress, but a person sustaining special damage by reason of the subsequent irregularity may recover full satisfaction for the special damage (and no more) by proceedings in trespass or otherwise[13].

1 For the meaning of 'liability order' see para 312 note 2 ante.

2 Ie subject to the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 45A (as added) (see para 336 post): see reg 45(1) (as amended: see note 5 infra).

3 For these purposes, the appropriate amount is the aggregate of:

(1) an amount equal to any outstanding sum which is or forms part of the amount in respect of which the liability order was made (ibid reg 45(2)(a)); and

(2) a sum determined in accordance with reg 45(2)(b), Sch 5 (Sch 5 substituted by SI 1993/773; amended by SI 1998/295; in relation to England by SI 2003/2211; SI 2006/3395; SI 2007/501; in relation to Wales by SI 2004/1013) in respect of charges connected with the distress (Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 45(2)(b)).

As to the application of reg 45 (as amended) to Pt V (regs 17–31) (as amended) (see para 292 et seq ante) see para 314 note 4 ante.

4 For the meaning of 'debtor' see para 317 note 2 ante.

5 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 45(1) (amended by SI 1989/295). No distress under the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 45 (as amended) may be made other than by a person who is authorised to act as a bailiff by a general certificate granted under the Law of Distress Amendment Act 1888 s 7 (as amended) (see DISTRESS vol 13 (2007 Reissue) para 994): Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 45(6A) (added by SI 1998/295).

6 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 45(1A)(a) (reg 45(1A) added by SI 1993/773).

7 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 45(1A)(b) (as added: see note 6 supra). The provisions of reg 45 (as amended) do not affect the operation of any enactment which protects goods of any class from distress: reg 45(8).

8 Ibid reg 45(3).

9 Ibid reg 45(4).

10 Ie a copy of ibid reg 45 (as amended) and Sch 5 (as substituted and amended) (see note 3 supra): see reg 45(5).

11 Ibid reg 45(5). As to close possession and walking possession agreements see DISTRESS vol 13 (2007 Reissue) para 1018.

12 Ibid reg 45(6).

13 Ibid reg 45(7).

336. Information preliminary to distress. No distress may be made for the purposes of enforcing the council tax provisions[1] unless, no less than 14 days before a visit in connection with the distress is first made to the premises where it is to be levied, the authority has sent to the debtor[2] written notice of the following matters[3], namely:

(1) the fact that a liability order[4] has been made against the debtor[5];
(2) the amount in respect of which the liability order was made and, where this is a different amount, the amount which remains outstanding[6];
(3) a warning that unless the amount specified has been paid before the expiry of 14 days beginning on the date of the sending of the notice, distress may be levied[7];
(4) notice that if distress is levied further costs will be incurred by the debtor[8];
(5) the fees prescribed[9];
(6) the address and telephone number at which the debtor can communicate with the authority[10].

1 Ie may be made under the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613 (as amended) (see para 279 et seq ante): see reg 45A(1) (as added: see note 3 infra). As to the provision that is made for distress in regulations that have been made in order to govern the recovery of sums which have become payable in respect of the council tax but have not been paid see para 334 et seq ante. As to council tax generally see para 227 et seq ante.
2 For the meaning of 'debtor' see para 317 note 2 ante.
3 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 45A(1) (reg 45A added by SI 1998/295). As to the service or giving of notices generally see para 280 ante.
As to the application of the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 45A (as added) to Pt V (regs 17–31) (as amended) (see para 292 et seq ante) see para 314 note 4 ante.
4 For the meaning of 'liability order' see para 312 note 2 ante.
5 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 45A(2)(a) (as added: see note 3 supra).
6 Ibid reg 45A(2)(b) (as added: see note 3 supra).
7 Ibid reg 45A(2)(c) (as added: see note 3 supra).
8 Ibid reg 45A(2)(d) (as added: see note 3 supra).
9 Ibid reg 45A(2)(e) (as added: see note 3 supra). Head (5) in the text refers to the fees prescribed in reg 45(2)(b), Sch 5 (as substituted and amended) (see para 335 note 3 ante): see reg 45A(2)(e) (as so added).
10 Ibid reg 45A(2)(f) (as added: see note 3 supra).

337. Appeals in connection with distress. A person aggrieved by the levy of (or an attempt to levy) a distress[1] may appeal to a magistrates' court[2]. The appeal is instituted by making complaint to a justice of the peace[3], and requesting the issue of a summons directed to the authority which levied or attempted to levy the distress to appear before the court to answer to the matter by which the person is aggrieved[4].

If the court is satisfied that a levy was irregular, it may order the goods distrained to be discharged if they are in the possession of the authority; and it may by order award compensation in respect of any goods distrained and sold of an amount equal to the amount which, in the opinion of the court, would be awarded by way of special damages in respect of the goods if proceedings were brought in trespass or otherwise in connection with the irregularity[5].

If the court is satisfied that an attempted levy was irregular, it may by order require the authority to desist from levying in the manner giving rise to the irregularity[6].

1 As to the provision that is made for distress in order to recover sums that have become payable in respect of the council tax but have not been paid see para 334 et seq ante. As to council tax generally see para 227 et seq ante. As to persons aggrieved see ADMINISTRATIVE LAW vol 1(1) (2001 Reissue) para 56.
2 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 46(1).
As to the application of reg 46 to Pt V (regs 17–31) (as amended) (see para 292 et seq ante) see para 314 note 4 ante.
3 References to a justice of the peace in ibid reg 46(2) must be construed subject to the Justices' Clerks Rules 2005, SI 2005/545, r 3 (as amended) (which authorises certain matters authorised to be done by

a justice of the peace to be done by a justices' clerk) (see MAGISTRATES vol 29(2) (Reissue) para 638): Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 53(3).

4 Ibid reg 46(2). As to the magistrates' court, and as to the admissibility in proceedings under reg 46 of evidence derived from records compiled by the applicant authority (or by an authorised person) before such a court, see para 344 post.

5 Ibid reg 46(3). The text refers to proceedings brought in trespass or otherwise in connection with the irregularity under reg 45(7) (see para 335 ante): see reg 46(3).

6 Ibid reg 46(4).

(v) Commitment

338. Provision for commitment to prison. Regulations made under the provisions that govern the recovery of sums which have become payable in respect of the council tax but have not been paid[1] may provide that[2]:

(1) where an authority has sought to levy an amount by distress[3], where the debtor[4] is an individual who has attained the age of 18 years, and where the person making the distress reports to the authority that he was unable (for whatever reason) to find any or sufficient goods of the debtor on which to levy the amount, the authority may apply to a magistrates' court for the issue of a warrant committing the debtor to prison[5];

(2) on such application being made the court must (in the debtor's presence) inquire as to his means and inquire whether the failure to pay which has led to the application is due to his wilful refusal or culpable neglect[6];

(3) if (and only if) the court is of opinion that his failure is due to his wilful refusal or culpable neglect it may if it thinks fit issue a warrant of commitment against the debtor, or fix a term of imprisonment and postpone the issue of the warrant until such time and on such conditions (if any) as the court thinks just[7];

(4) the warrant must be made in respect of the relevant amount[8];

(5) the warrant must state that amount[9];

(6) the order in the warrant must be that the debtor be imprisoned for a time specified in the warrant (which must not exceed three months), unless the amount stated in the warrant is sooner paid[10];

(7) the period of imprisonment must be reduced by a prescribed amount in respect of part payment in prescribed circumstances[11];

(8) a warrant may be directed to the authority concerned and to such other persons (if any) as the court issuing it thinks fit[12];

(9) a warrant may be executed anywhere in England and Wales by any person to whom it is directed[13].

The regulations may include:

(a) provision that a single warrant must not be issued against more than one person[14];

(b) provision as to the form of a warrant[15];

(c) provision allowing remission of payment where no warrant is issued or term of imprisonment fixed[16];

(d) provision allowing an application to be renewed where no warrant is issued or term of imprisonment fixed[17];

(e) provision that a statement in writing to the effect that wages of any amount have been paid to the debtor during any period, purporting to be signed by or on behalf of his employer, is evidence of the facts there stated[18];

(f) provision that, for the purpose of enabling inquiry to be made as to the debtor's conduct and means, a justice of the peace may issue a summons to him to appear before a magistrates' court and (if he does not obey the summons) may issue a warrant for his arrest[19];

(g) provision that, for the purpose of enabling such inquiry, a justice of the peace may issue a warrant for the debtor's arrest without issuing a summons[20];

(h) provision as to the execution of a warrant for arrest (which may include provision allowing it to be executed anywhere in England and Wales)[21].

1 Ie regulations under the Local Government Finance Act 1992 Sch 4 para 1(1) (prospectively amended) (see para 310 ante): see Sch 4 para 8(1). As to the making of regulations under the Local Government Finance Act 1992 generally see para 228 ante; and as to the regulations so made under Sch 4 para 1(1) (prospectively amended) see para 310 note 2 ante; and see para 339 post. As to council tax generally see para 227 et seq ante.

2 Ibid Sch 4 para 8(1).

3 Ie under any provision included by virtue of ibid Sch 4 para 7 (as amended; prospectively repealed) (see para 334 ante): see Sch 4 para 8(1)(a) (prospectively amended: see note 5 infra).

4 For the meaning of 'debtor' for these purposes see para 334 ante.

5 Local Government Finance Act 1992 Sch 4 para 8(1)(a).

As from a day to be appointed under the Tribunals, Courts and Enforcement Act 2007 s 148(5), head (1) in the text is amended so as to read 'where the debtor is an individual who has attained the age of 18 years, and there are insufficient goods to satisfy an amount under the Local Government Finance Act 1992 s 14(4) (prospectively added) (power to use the procedure in the Tribunals, Courts and Enforcement Act 2007 s 62(1), Sch 12 (taking control of goods): see para 313 note 3 ante), the authority may apply to a magistrates' court for the issue of a warrant committing the debtor to prison': see the Local Government Finance Act 1992 Sch 4 para 8(1)(a) (prospectively amended by the Tribunals, Courts and Enforcement Act 2007 ss 62(3), 146, Sch 13 paras 101, 107(1), (5)(a), Sch 23 Pt 3). For these purposes, the reference to insufficient goods to satisfy an amount under the Local Government Finance Act 1992 s 14(4) (prospectively added) is a reference to circumstances where a person authorised to act under the power conferred by s 14(4) (prospectively added) has reported to the authority concerned that he was unable (for whatever reason) to find sufficient goods of the debtor to pay the amount outstanding: see Sch 4 para 8(1A) (prospectively added by the Tribunals, Courts and Enforcement Act 2007 Sch 13 paras 101, 107(1), (5)(b)). At the date at which this volume states the law, no such day had been appointed.

6 Local Government Finance Act 1992 Sch 4 para 8(1)(b).

7 Ibid Sch 4 para 8(1)(c).

8 Ibid Sch 4 para 8(1)(d). For these purposes, the relevant amount is the aggregate of:

(1) an amount equal to the appropriate amount within the meaning of Sch 4 para 7 (as amended; prospectively repealed) (see para 334 ante) or (as the case may be) to so much of it as remains outstanding (Sch 4 para 8(2)(a)); and

(2) a sum (of a prescribed amount or an amount determined in accordance with prescribed rules) in respect of the costs of commitment (Sch 4 para 8(2)(b)).

For these purposes, 'prescribed' means prescribed by regulations made (in relation to England) by the Secretary of State and (in relation to Wales) by the Welsh Ministers: Sch 4 para 20 (added by the Local Government Act 2003 s 127(1), Sch 7 paras 40, 54). See note 1 supra. For the meanings of 'England' and 'Wales' see para 1 note 2 ante. As to the Secretary of State and the Welsh Ministers see para 228 ante.

As from a day to be appointed under the Tribunals, Courts and Enforcement Act 2007 s 148(5), the Local Government Finance Act 1992 Sch 4 para 8(2)(a) (see head (1) supra) is substituted so that it reads 'the amount outstanding at the time when the warrant of commitment is issued': see Sch 4 para 8(2)(a) (prospectively substituted by the Tribunals, Courts and Enforcement Act 2007 Sch 13 paras 101, 107(1), (5)(c)). For these purposes, 'amount outstanding' has the meaning given by the Tribunals, Courts and Enforcement Act 2007 s 62(1), Sch 12 para 50(3) (not yet in force): Local Government Finance Act 1992 Sch 4 para 8(4) (prospectively added by the Tribunals, Courts and Enforcement Act 2007 Sch 13 paras 101, 107(1), (5)(d)). However, at the date at which this volume states the law, no such day had been appointed.

9 Local Government Finance Act 1992 Sch 4 para 8(1)(e).

10 Ibid Sch 4 para 8(1)(f).

11 Ibid Sch 4 para 8(1)(g).

12 Ibid Sch 4 para 8(1)(h).

13 Ibid Sch 4 para 8(1)(i).

14 Ibid Sch 4 para 8(3)(a). Head (a) in the text prohibits a single warrant to be issued under any provision included under Sch 4 para 8 (prospectively amended): see Sch 4 para 8(3)(a).

15 Ibid Sch 4 para 8(3)(b).

16 Ibid Sch 4 para 8(3)(c).

17 Ibid Sch 4 para 8(3)(d).

18 Ibid Sch 4 para 8(3)(e).

19 Ibid Sch 4 para 8(3)(f).
20 Ibid Sch 4 para 8(3)(g).
21 Ibid Sch 4 para 8(3)(h).

339. Commitment to prison. In circumstances where:

(1) a billing authority[1] has sought to levy an amount by distress[2];
(2) the debtor[3] is an individual who has attained the age of 18 years[4]; and
(3) the person making the distress reports to the authority that he was unable (for whatever reason) to find any or sufficient goods of the debtor on which to levy the amount[5],

the authority may apply to a magistrates' court for the issue of a warrant committing the debtor to prison[6]. On such application being made, the court must (in the debtor's presence) inquire as to his means and inquire whether the failure to pay which has led to the application is due to his wilful refusal or culpable neglect[7].

If (and only if) the court is of the opinion that his failure is due to his wilful refusal or culpable neglect it may if it thinks fit issue a warrant of commitment against the debtor[8], or fix a term of imprisonment and postpone the issue of the warrant until such time and on such conditions (if any) as the court thinks just[9]. The warrant must be made in respect of the relevant amount[10] and must state the relevant amount[11]. It may be directed to the authority making the application and to such other persons (if any) as the court issuing it thinks fit[12], and may be executed anywhere in England and Wales[13] by any person to whom it is directed[14].

However, if:

(a) before a warrant has been issued, or a term of imprisonment fixed and the issue of a warrant postponed, an amount to be determined[15] is paid or tendered to the authority[16]; or
(b) after a term of imprisonment has been fixed and the issue of a warrant postponed, the amount (if any) the court has ordered the debtor to pay is paid or tendered to the authority[17]; or
(c) after a warrant has been issued, the amount stated in it is paid or tendered to the authority[18],

the authority must accept the amount concerned, no further steps may be taken as regards its recovery, and the debtor (if committed to prison) must be released[19].

The order in the warrant must be that the debtor be imprisoned for a time specified in the warrant which must not exceed three months, unless the amount stated in the warrant is sooner paid[20].

A single warrant committing a debtor to prison may not be issued against more than one person[21].

Where an application for the issue of a warrant committing the debtor to prison has been made[22] and, after the making of the proper inquiries[23], no warrant is issued or term of imprisonment fixed, the court may remit all or part of the appropriate amount[24] with respect to which the application related[25]. Where such an application has been made but no warrant is issued or term of imprisonment fixed, the application may be renewed (except so far as regards any sum so remitted) on the ground that the circumstances of the debtor have changed[26].

A statement in writing to the effect that wages of any amount have been paid to the debtor during any period, purporting to be signed by or on behalf of his employer, is in any proceedings for committal evidence of the facts there stated[27]. For the purpose of enabling inquiry to be made as to the debtor's conduct and means, a justice of the peace may[28]:

(i) issue a summons to him to appear before a magistrates' court and (if he does not obey the summons) issue a warrant for his arrest[29]; or

(ii) issue a warrant for the debtor's arrest without issuing a summons[30].

A warrant issued under head (i) or head (ii) above may be executed anywhere in England and Wales by any person to whom it is directed or by any constable acting within his police area[31].

There is no express provision made in the regulations for a taxpayer to challenge an order for commitment to prison[32].

1 As to billing authorities see para 229 ante.

2 See the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 47(1). The text refers to an amount levied by distress under reg 45 (as amended) (see para 335 ante): see reg 47(1).

Regulation 47 (as amended) and reg 48 (as amended) (see the text and notes 21–31 infra) both have effect subject to the Criminal Justice Act 1982 Pt I (ss 1–11) (largely repealed) (treatment of young offenders) (see now the Powers of Criminal Courts (Sentencing) Act 2000; and see CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(4) (2006 Reissue) para 1596 et seq): Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 48(7).

As to the application of regs 47, 48 (both as amended) to Pt V (regs 17–31) (as amended) (see para 292 et seq ante) see para 314 note 4 ante.

3 For the meaning of 'debtor' see para 317 note 2 ante.

4 See the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 47(1).

5 See ibid reg 47(1).

6 See ibid reg 47(1). As to the magistrates' court, and as to the admissibility in proceedings under reg 47 of evidence derived from records compiled by the applicant authority (or by an authorised person) before such a court, see para 344 post. The power of committal to prison for failure to pay local taxes or fines has been considered by the European Court of Human Rights in *Lloyd v United Kingdom* [2006] RA 329, ECtHR, and in *Beet v United Kingdom* [2006] RA 384, ECtHR. See also *Benham v United Kingdom* (1996) 22 EHRR 293, ECtHR; and *Perks v United Kingdom* (1999) 30 EHRR 33, ECtHR.

7 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 47(2).

8 Ibid reg 47(3)(a). See *R v Cannock Justices, ex p Swaffer* [1997] EWHC Admin 822, [2003] RVR 114 (imprisonment appeared to have been imposed out of pure retribution rather than for a proper purpose given the lack of evidence that there was likely to be means to pay).

9 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 47(3)(b). See *R v Newcastle Justices, ex p Ashley* [1993] RA 264 (community charge case, where the warrant was quashed because the magistrates failed to consider alternative ways of dealing with the debtor); *R v Highbury Corner Magistrates' Court, ex p Uchendu* [1994] RA 51, 158 LGR 481. See also non-domestic rating cases, eg *Stevenson v Southwark London Borough Council* [1993] RA 113 (cited in para 197 note 7 ante), which may be considered in this context.

Most of the cases cited in this paragraph were decided under earlier legislation, and they must therefore now be considered in relation to the provisions of the Local Government Finance Act 1992 (see paras 228 et seq ante, 340 et seq post). As to the historical development of rating law and the continuing relevance of old case law to the current statutory regime governing council tax see para 2 ante.

10 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 47(4). The relevant amount for this purpose is the aggregate of:

(1) an amount equal to the appropriate amount mentioned in reg 45(2) (see para 335 ante) or (as the case may be) so much of it as remains outstanding (reg 47(4)(a)); and

(2) a sum of an amount equal to the costs reasonably incurred by the applicant in respect of the application (reg 47(4)(b)).

11 Ibid reg 47(5)(a). The reference to the relevant amount is to that mentioned in reg 47(4) (see note 10 supra): see reg 47(5)(a).

12 Ibid reg 47(5)(b).

13 For the meanings of 'England' and 'Wales' see para 1 note 2 ante.

14 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 47(5)(c).

15 Ie determined in accordance with ibid reg 47(6A) (as added): see reg 47(6)(a) (as substituted: see note 16 infra). The amount referred to in reg 47(6)(a) (as substituted) is the aggregate of:

(1) the appropriate amount mentioned in reg 45(2) (see para 335 ante) (or so much of it as remains outstanding) (reg 47(6A)(a) (reg 47(6A), (6B), Sch 6 added by SI 1994/505)); and

(2) subject to the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 47(6B) (as added), the authority's reasonable costs incurred up to the time of payment or tender in making one or more of the applications referred to in reg 47(6A), (6B) (as added), Sch 6 (as so added; amended in relation to England by SI 2006/3395) (Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 47(6A)(b) (as so added)).

For the purposes of reg 47(6A)(b) (as added) (see head (2) supra), the authority's reasonable costs in respect of any application must not exceed the amount specified for that application in Sch 6 (as added and amended): reg 47(6B) (as so added).

16 Ibid reg 47(6)(a) (reg 47(6) substituted by SI 1994/505).

17 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 47(6)(b) (as substituted: see note 16 supra).

18 Ibid reg 47(6)(c) (as substituted: see note 16 supra).

19 Ibid reg 47(6) (as substituted: see note 16 supra).

20 Ibid reg 47(7).

However, where a warrant is issued after a postponement under reg 47(3)(b) (see the text and note 9 supra) and, since the term of imprisonment was fixed but before the issue of the warrant, the amount mentioned in reg 47(4)(a) (see note 10 head (1) supra) with respect to which the warrant would (but for the postponement) have been made has been reduced by a part payment, the period of imprisonment ordered under the warrant must be the term fixed under reg 47(3) (see the text and note 9 supra) reduced by such number of days as bears to the total number of days in that term less one day the same proportion as the part paid bears to that amount: reg 47(7)(a). Where, after the issue of a warrant, a part payment of the amount stated in it is made, the period of imprisonment must be reduced by such number of days as bears to the total number of days in the term of imprisonment specified in the warrant less one day the same proportion as the part paid bears to the amount so stated: reg 47(7)(b). In calculating a reduction required under reg 47(7), any fraction of a day is to be left out of account; and the Magistrates' Courts Rules 1981, SI 1981/552, r 55(1)–(3) (as amended) (payment after imprisonment imposed) (see MAGISTRATES vol 29(2) (Reissue) para 852 et seq) applies (so far as is relevant) to a part payment as if the imprisonment concerned were imposed for want of sufficient distress to satisfy a sum adjudged to be paid by a magistrates' court: Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 47(8).

21 Ibid reg 48(1) (amended in relation to Wales by SI 2003/1715; in relation to England by SI 2003/2211).

22 Ie under the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 47 (as amended) (see the text and notes 1–20 supra): see reg 48(2).

23 Ie the inquiries mentioned in ibid reg 47(2) (see the text and note 7 supra): see reg 48(2).

24 Ie the appropriate amount mentioned in ibid reg 45(2) (see para 335 ante): see reg 48(2).

25 Ibid reg 48(2). See *R (on the application of Broadhurst) v Sheffield Justices* [2001] RVR 245 (the court should consider the question of remission of part or all of the sums due before it considers the question of imprisonment); and *Teignbridge District Council v Saunders* [2001] EWHC Admin 344, [2001] RVR 282, [2001] All ER (D) 94 (May) (justices had no discretion to rescind or cancel an order for imprisonment reasonably imposed at an earlier hearing and then to proceed to exercise their power of remission in the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 48(2) which expressly applied only where no order for imprisonment had been made).

26 Ibid reg 48(3).

27 Ibid reg 48(4).

28 Ibid reg 48(5).

29 Ibid reg 48(5)(a).

30 Ibid reg 48(5)(b).

31 Ibid reg 48(6). The Magistrates' Courts Act 1980 s 125(3) (repealed) (execution of warrants) (see now s 125A (as added and amended) et seq; and MAGISTRATES vol 29(2) (Reissue) para 861) applies to such a warrant: see the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 48(6). As to police areas see POLICE vol 36(1) (2007 Reissue) para 136 et seq.

32 Accordingly, remedies must be sought by means outside the regulations: see eg *R (on the application of Nwankwo) v Hendon Magistrates' Court* [2003] EWHC 1659 Admin, [2003] All ER (D) 27 (Jun) (on application for judicial review, the justices' decision to commit the taxpayer to prison was quashed on grounds that the hearing had been unfair and that the procedure set out under the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613 (as amended), governing the steps to be taken before committal is considered, had not been followed); and see *R v Newcastle upon Tyne Justices, ex p Devine* [1998] RA 97, 162 JP 602 (a community charge case). See also *R v Thanet District Council, ex p Haddow* [1992] RA 245 (a community charge case).

(vi) Procedural Matters

340. Provision for the relationship between remedies. As regards a case where a magistrates' court has made a liability order[1], regulations made under the provisions that govern the recovery of sums which have become payable in respect of the council tax but have not been paid[2] may include provision that[3]:

(1) attachment of earnings[4] may be resorted to more than once[5];

(2) deductions from income support[6], deductions from state pension credit[7] or (as from a day to be appointed[8]) deductions from an employment and support allowance[9] may be resorted to more than once[10] or that (until a day to be appointed[11]) distress may be resorted to more than once[12];

(3) attachment of earnings, deductions from income support, deductions from state pension credit and distress (or any two of them) may be resorted to in any order or alternately (or both)[13];

(4) steps by way of attachment, deduction, distress, commitment, bankruptcy, winding up or charging may not be taken while steps by way of another of those methods are being taken[14];

(5) where a warrant of commitment is issued against (or a term of imprisonment is fixed in the case of) the person concerned no steps, or no further steps, by way of attachment, deduction, distress, bankruptcy or charging may be taken[15].

1 As to provision made for liability orders see para 313 et seq ante.

2 Ie regulations under the Local Government Finance Act 1992 s 14(3), Sch 4 para 1(1) (prospectively amended) (see para 310 ante): see Sch 4 para 12(1). As to the making of regulations under the Local Government Finance Act 1992 generally see para 228 ante; and as to the regulations so made under Sch 4 para 1(1) (prospectively amended) see para 310 note 2 ante; and see para 341 post. As to council tax generally see para 227 et seq ante.

3 Ibid Sch 4 para 12(1).

4 Any reference to attachment of earnings includes a reference to attachment of allowances: ibid Sch 4 para 12(2). As to attachment of earnings and attachment of allowances see para 324 et seq ante.

5 Ibid Sch 4 para 12(1)(a).

6 Ibid Sch 4 para 12(1)(b). As to income support see SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) para 176 et seq.

7 Ibid Sch 4 para 12(1)(bb) (added by the State Pension Credit Act 2002 s 14, Sch 2 Pt 3 paras 32, 34(a)). As to state pension credit see SOCIAL SECURITY AND PENSIONS.

8 As from a day to be appointed under the Welfare Reform Act 2007 s 70(2), the Local Government Finance Act 1992 Sch 4 para 12(1)(bc) is added by the Welfare Reform Act 2007 s 28(1), Sch 3 para 11(1), (2)(b). However, at the date at which this volume states the law, no such day had been appointed.

9 Local Government Finance Act 1992 Sch 4 para 12(1)(bc) (prospectively added: see note 8 supra).

10 Ibid Sch 4 para 12(1)(b), Sch 4 para 12(1)(bb) (as added: see note 7 supra), Sch 4 para 12(1)(bc) (prospectively added: see note 8 supra).

11 As from a day to be appointed under the Tribunals, Courts and Enforcement Act 2007 s 148(5), the Local Government Finance Act 1992 Sch 4 para 12(1)(c) is repealed by the Tribunals, Courts and Enforcement Act 2007 ss 62(3), 146, Sch 13 paras 101, 107(1), (6)(a), Sch 23 Pt 3. However, at the date at which this volume states the law, no such day had been appointed.

12 Local Government Finance Act 1992 Sch 4 para 12(1)(c) (prospectively repealed: see note 11 supra).

13 Ibid Sch 4 para 12(1)(d) (amended by the State Pension Credit Act 2002 Sch 2 Pt 3 paras 32, 34(b)).

As from a day (or days) to be appointed under the Tribunals, Courts and Enforcement Act 2007 s 148(5) and the Welfare Reform Act 2007 s 70(2), head (3) in the text is amended so as to read 'attachment of earnings, deductions from income support, deductions from state pension credit, deductions from an employment and support allowance and the power conferred by the Local Government Finance Act 1992 s 14(4) (prospectively added) (power to use the procedure in the Tribunals, Courts and Enforcement Act 2007 s 62(1), Sch 12 (taking control of goods): see para 313 note 3 ante) (or any two of them) may be resorted to in any order or alternately (or both)': see the Local Government Finance Act 1992 Sch 4 para 12(1)(d) (as so amended; prospectively further amended by the Tribunals, Courts and Enforcement Act 2007 Sch 13 paras 101, 107(1), (6)(b); and the Welfare Reform Act 2007 Sch 3 para 11(1), (2)(c)). At the date at which this volume states the law, no such day (or days) had been appointed.

14 Local Government Finance Act 1992 Sch 4 para 12(1)(e).

As from a day to be appointed under the Tribunals, Courts and Enforcement Act 2007 s 148(5), head (4) in the text is amended so that the reference to 'distress' is repealed and a reference to 'exercise of the power conferred by the Local Government Finance Act 1992 s 14(4) (prospectively added) (see para 313

note 3 ante)' is added: see Sch 4 para 12(1)(e) (prospectively amended by the Tribunals, Courts and Enforcement Act 2007 Sch 13 paras 101, 107(1), (6)(c)). At the date at which this volume states the law, no such day had been appointed.

15 Local Government Finance Act 1992 Sch 4 para 12(1)(f).

As from a day to be appointed under the Tribunals, Courts and Enforcement Act 2007 s 148(5), head (5) in the text is amended so that the reference to 'distress' is repealed and a reference to 'exercise of the power conferred by the Local Government Finance Act 1992 s 14(4) (prospectively added) (see para 313 note 3 ante)' is added: see Sch 4 para 12(1)(f) (prospectively amended by the Tribunals, Courts and Enforcement Act 2007 Sch 13 paras 101, 107(1), (6)(d)). At the date at which this volume states the law, no such day had been appointed.

341. Relationship between remedies. Where a warrant of commitment is issued against (or a term of imprisonment is fixed in the case of) a person[1], no steps, or no further steps, may be taken under the council tax enforcement provisions[2], by way of attachment of allowances, attachment of earnings, distress, bankruptcy or charging, or under the Income Support Regulations[3], in relation to the relevant amount[4]. Steps under the council tax enforcement provisions[5] by way of attachment of allowances, attachment of earnings, distress, commitment, bankruptcy, winding up or charging may not be taken in relation to a person against whom a liability order[6] has been made while[7]:

(1) steps by way of another of those methods are being taken against him under it[8]; or

(2) deductions are being made under the Income Support Regulations from any amount payable to him by way of income support or jobseeker's allowance[9]; or

(3) an application under the Income Support Regulations[10] has been made in respect of him to the Secretary of State[11] and remains undetermined[12].

An application as mentioned in head (3) above[13] may not be made in respect of a person against whom a liability order has been made while steps under the council tax enforcement provisions[14] are being taken against him for the recovery of an amount equal to any outstanding sum which is or forms part of the amount in respect of which the liability order was made[15].

Attachment of allowances, attachment of earnings, deductions under the Income Support Regulations or distress may be resorted to more than once[16]; and attachment of allowances, attachment of earnings, deductions under the Income Support Regulations or distress may be resorted to in any order or alternately (or both)[17].

Where a step is taken for the recovery of an outstanding sum which is or forms part of an amount in respect of which a liability order has been made and under which additional costs or charges with respect to the step are also recoverable in accordance with the council tax enforcement provisions[18], any sum recovered thereby which is less than the aggregate of the amount outstanding and such additional costs and charges is to be treated as discharging first the costs and charges, the balance (if any) being applied towards the discharge of the outstanding sum[19].

1 Ie under the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 47(3) (see para 339 ante): see reg 52(1) (as amended: see note 4 infra).

2 Ie under ibid Pt VI (regs 32–57) (as amended) (see paras 314 et seq ante, 344 et seq post): see reg 52(1) (as amended: see note 4 infra).

3 Ie the Council Tax (Deduction from Income Support) Regulations 1993, SI 1993/494 (as amended) (see para 310 note 2 ante): see the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 32(1) (definition as added); and para 312 note 13 ante.

4 Ibid reg 52(1) (amended by SI 1993/773). The text refers to the relevant amount mentioned in the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 47(4) (see para 339 ante): see reg 52(1) (as so amended).

As to the application of reg 52 (as amended) to Pt V (regs 17–31) (as amended) (see para 292 et seq ante) see para 314 note 4 ante.

5 Ie under ibid Pt VI (as amended) (see paras 314 et seq ante, 344 et seq post): see reg 52(2) (as amended: see note 7 infra).
6 For the meaning of 'liability order' see para 312 note 2 ante. As to attachment of allowances, attachment of earnings, distress, commitment, bankruptcy, winding up or charging etc see para 324 et seq ante.
7 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 52(2) (amended by SI 1993/773).
8 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 52(2)(a) (reg 52(2)(a)–(c) added by SI 1993/773).
9 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 52(2)(b) (as added (see note 8 supra); amended by SI 1996/2405). As to income support see SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) para 176 et seq; and as to jobseeker's allowance see SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) para 258 et seq.
10 Ie under the Council Tax (Deductions from Income Support) Regulations 1993, SI 1993/494, reg 2 (as amended) (see para 310 ante): see the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 52(2)(c) (as added: see note 8 supra).
11 As to the Secretary of State see para 228 ante; and see para 333 note 4 ante.
12 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 52(2)(c) (as added: see note 8 supra).
13 Ie under the Council Tax (Deductions from Income Support) Regulations 1993, SI 1993/494, reg 2 (as amended) (see para 310 ante): see the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 52(2A) (as added: see note 15 infra).
14 Ie under ibid Pt VI (as amended) (see paras 314 et seq ante, 344 et seq post): see reg 52(2A) (as added: see note 15 infra).
15 Ibid reg 52(2A) (added by SI 1993/773).
16 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 52(3)(a) (reg 52(3)(a), (b) amended by SI 1994/505). The Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 52(3)(a) (as amended) and reg 52(3)(b) (as amended) (see the text and note 17 infra) are subject to reg 52(1), (2) (both as amended) (see the text and notes 1–12 supra): reg 52(3).
17 Ibid reg 52(3)(b) (as amended: see note 16 supra). See note 16 supra.
18 Ie under ibid Pt VI (as amended) (see paras 314 et seq ante, 344 et seq post): see reg 52(4).
19 Ibid reg 52(4).

342. Provision for magistrates and justices. Regulations made under the provisions that govern the recovery of sums which have become payable in respect of the council tax but have not been paid[1] may include[2]:

(1) provision for determining what justices and magistrates' courts are to have jurisdiction in cases provided for by the regulations[3]; and
(2) provision as to the composition of magistrates' courts in cases provided for by the regulations[4].

1 Ie regulations under the Local Government Finance Act 1992 s 14(3), Sch 4 para 1(1) (prospectively amended) (see para 310 ante): see Sch 4 para 13. As to the making of regulations under the Local Government Finance Act 1992 generally see para 228 ante; and as to the regulations so made under Sch 4 para 1(1) (prospectively amended) see para 310 note 2 ante; and see para 344 post. As to council tax generally see para 227 et seq ante.
2 Local Government Finance Act 1992 Sch 4 para 13.
3 Ibid Sch 4 para 13(a).
4 Ibid Sch 4 para 13(b).

343. Provision for the admissibility of evidence in proceedings before a magistrates' court. Regulations made under the provisions that govern the recovery of sums which have become payable in respect of the council tax but have not been paid[1] may include provision that, in any proceedings before a magistrates' court under any such of those provisions[2]:

(1) a statement[3] contained in a document of record[4] is admissible as evidence of any fact stated in it of which direct oral evidence would be admissible[5]; and
(2) a certificate which is made with respect to a document of record produced by a

computer and purports to be signed by a responsible person[6] is admissible as evidence of anything which is stated in it to the best of his information and belief[7].

1 Ie regulations under the Local Government Finance Act 1992 s 14(3), Sch 4 para 1(1) (prospectively amended) (see para 310 ante): see Sch 4 para 14(1). As to the making of regulations under the Local Government Finance Act 1992 generally see para 228 ante; and as to the regulations so made under Sch 4 para 1(1) (prospectively amended) see para 310 note 2 ante; and see paras 331 ante, 344 post. As to council tax generally see para 227 et seq ante.

2 Ibid Sch 4 para 14(1). The text refers to any proceedings before a magistrates' court under any provision included by virtue of the provisions of Sch 4 paras 1–13 (as amended) (see para 310 et seq ante): see Sch 4 para 14(1). As to admissibility of evidence before a valuation tribunal see para 363 post.

3 For these purposes, 'statement' includes any representation of fact, whether made in words or otherwise: ibid Sch 4 para 14(2).

4 For these purposes, 'document of record' means a document constituting or forming part of a record compiled by the authority concerned: ibid Sch 4 para 14(2).

5 Ibid Sch 4 para 14(1)(a).

6 For these purposes, 'responsible person' means a person occupying a responsible position in relation to the operation of the computer: ibid Sch 4 para 14(2).

7 Ibid Sch 4 para 14(1)(b).

344. Magistrates' courts. Subject to any other enactment authorising a District Judge (magistrates' courts) or other person to act by himself, a magistrates' court may not under the council tax enforcement provisions[1] hear a summons, entertain an application for a warrant or hold an inquiry as to means on such an application except when composed of at least two justices[2].

In any proceedings relating to:

(1) an application for a liability order[3];

(2) an appeal in connection with distress[4]; or

(3) an application for the issue of a warrant committing a debtor to prison[5],

a statement[6] contained in a document constituting or forming part of a record compiled by the applicant authority or an authorised person[7] is admissible as evidence of any fact stated in it of which direct oral evidence would be admissible[8]. In proceedings where the applicant authority or an authorised person desires to give a statement in evidence in this way, and the document containing that statement is produced by a computer[9], a certificate:

(a) identifying the document containing the statement and the computer by which it was produced[10];

(b) containing a statement that at all material times the computer was operating properly, or if not, that any respect in which it was not operating properly or was out of operation was not such as to affect the production of the document or the accuracy of its contents[11];

(c) giving such explanation as may be appropriate of the content of the document[12]; and

(d) purporting to be signed by a person occupying a responsible position in relation to the operation of the computer[13],

is admissible as evidence of anything which is stated in it to the best of the signatory's information and belief[14].

1 Ie under the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, Pt VI (regs 32–57) (as amended) (see paras 314 et seq ante, 346 et seq post): see reg 53(2) (as amended: see note 2 infra).

2 Ibid reg 53(2) (amended in relation to England by SI 2000/2026; in relation to Wales by SI 2001/1076).

As to the application of the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 53 (as amended) to Pt V (regs 17–31) (as amended) (see para 292 et seq ante) see para 314 note 4 ante.

3 Ibid reg 53(4) (as amended: see note 8 infra). The text refers to an application under reg 34 (as amended) (see para 315 ante): see reg 53(4) (as so amended).
4 Ibid reg 53(4) (as amended: see note 8 infra). The text refers to an application under reg 46 (see para 337 ante): see reg 53(4) (as so amended).
5 Ibid reg 53(4) (as amended: see note 8 infra). The text refers to an application under reg 47 (as amended) (see para 339 ante): see reg 53(4) (as so amended). For these purposes, the reference to an application under reg 47 includes a reference to an application under reg 48(3) (see para 339 ante): reg 53(6). For the meaning of 'debtor' see para 317 note 2 ante.
6 For these purposes, 'statement' includes any representation of fact, whether made in words or otherwise: ibid reg 53(6).
7 For these purposes, 'authorised person' means any person authorised by a billing authority to exercise any functions relating to the administration and enforcement of the council tax: ibid reg 32(1) (definition added by SI 1996/1880). As to billing authorities see para 229 ante.
8 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 53(4) (amended by SI 1996/1880).
9 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 53(5) (amended by SI 1996/1880).
10 Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 53(5)(a).
11 Ibid reg 53(5)(b).
12 Ibid reg 53(5)(c).
13 Ibid reg 53(5)(d).
14 Ibid reg 53(5).

345. Provision for the exclusion of certain matters. Regulations made under the provisions that govern the recovery of sums which have become payable in respect of the council tax but have not been paid[1] may provide that any matter which could be the subject of an appeal under the Local Government Finance Act 1992[2], may not be raised in proceedings under those regulations[3].

1 Ie regulations under the Local Government Finance Act 1992 s 14(3), Sch 4 para 1(1) (prospectively amended) (see para 310 ante): see Sch 4 para 15. As to the making of regulations under the Local Government Finance Act 1992 generally see para 228 ante; and as to the regulations so made under Sch 4 para 1(1) (prospectively amended) see para 310 note 2 ante; and see para 346 post. As to council tax generally see para 227 et seq ante.
2 Ie under ibid s 16 (see para 353 post), or regulations under s 24 (as amended) (alteration of lists) (see para 273 ante): see Sch 4 para 15.
3 Ibid Sch 4 para 15.

346. Exclusion of certain matters. Any matter which could be the subject of an appeal under the Local Government Finance Act 1992[1] may not be raised in proceedings under the council tax enforcement provisions[2].

1 Ie under the Local Government Finance Act 1992 s 16 (see para 353 post), or regulations under s 24 (as amended) (alteration of lists) (see para 273 ante): see the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 57(1) (as amended: see note 2 infra).
2 Ibid reg 57(1) (amended by SI 1992/3008). The text refers to proceedings under the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, Pt VI (regs 32–57) (as amended) (see paras 314 et seq ante, 350 post): see reg 57(1) (as so amended). See also *Hardy v Sefton Metropolitan Borough Council* [2006] EWHC 1928 (Admin), [2007] RA 140, [2006] All ER (D) 409 (Jul) (assuming that a magistrates' court had jurisdiction to refuse to make a liability order where prejudice had been established, it did not follow that a tribunal had the same jurisdiction).

If a liability order has been made, and:

(1) by virtue of a notification which is given by the billing authority or an authorised person under the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 24(2) or (5) (see para 304 ante), reg 25(5) or (8) (see para 305 ante), reg 28(3) (as substituted) (see para 297 ante) or reg 28(4) (as substituted and amended) (see para 297 ante) or reg 31(2) (see para 299 ante), or reg 21, Sch 1 Pt III para 9(3) (see para 302 ante) or Sch 1 Pt III para 10(2)(a) (see para 303 ante) (reg 57(2)(a) (amended by SI 1996/1880)); or
(2) by virtue of the Local Government Finance Act 1992 s 31(4) (see para 261 ante) applying in any case (Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 57(2)(b)),

any part of the amount mentioned in reg 34(5)(a) (see para 315 ante) in respect of which the order was made would (if paid) fall to be repaid or credited against any subsequent liability, that part is to be treated for the purposes of Pt VI (as amended) as paid on the day the notification is given or the amount in substitution is set under the Local Government Finance Act 1992 s 31(2) (see para 261 ante) and accordingly as no longer outstanding (Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 57(2) (amended by SI 1992/3008)). For the meaning of 'authorised person' see para 344 note 7 ante; and for the meaning of 'liability order' see para 312 note 2 ante. As to billing authorities see para 229 ante.

If, after a warrant is issued or term of imprisonment is fixed under the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 47(3) (see para 339 ante), and before the term of imprisonment has begun or been fully served, a billing authority gives such a notification as is mentioned in reg 57(2)(a) (as amended) (see head (1) supra) in the case in question, or sets an amount in substitution so that the Local Government Finance Act 1992 s 31(4) applies in the case in question, it must forthwith notify accordingly the designated officer for the court which issued the warrant and (if the debtor is detained) the governor or keeper of the prison or place where he is detained or such other person as has lawful custody of him: Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 57(3) (amended by SI 2005/617; in relation to England by SI 2001/362; in relation to Wales by SI 2001/1076). For the meaning of 'debtor' see para 317 note 2 ante.

If the debtor is treated as having paid an amount under the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 57(2) (as amended) on any day (reg 57(4)), and:

(a) that day falls after the completion of the service of a term of imprisonment imposed under reg 47 (as amended) (see para 339 ante) in respect of the amount he is treated as having paid (reg 57(4)(a)); or

(b) the debtor is serving a term of imprisonment imposed under reg 47 (as amended) on that day and the amount he is treated as having paid exceeds the amount of any part payment which, if made, would cause the expiry of the term of imprisonment pursuant to reg 47(7)(b) (see para 339 ante) on that day (reg 57(4)(b)),

then the amount mentioned in head (a) supra or the excess mentioned in head (b) supra must be paid to the debtor or credited against any subsequent liability of his, as the debtor requires (reg 57(4)).

347. Provision for costs. Regulations made under the provisions that govern the recovery of sums which have become payable in respect of the council tax but have not been paid[1] may provide that where an authority has received in proceedings under the regulations an amount by way of costs it must pay a prescribed[2] amount, or an amount determined in accordance with prescribed rules, to a prescribed person for the benefit of such court as is identified in accordance with prescribed rules[3].

1 Ie regulations under the Local Government Finance Act 1992 s 14(3), Sch 4 para 1(1) (prospectively amended) (see para 310 ante): see Sch 4 para 16. As to the making of regulations under the Local Government Finance Act 1992 generally see para 228 ante; and as to the regulations so made under Sch 4 para 1(1) (prospectively amended) see para 310 note 2 ante; and see para 307 et seq ante. As to council tax generally see para 227 et seq ante.

2 For these purposes, 'prescribed' means prescribed by regulations made (in relation to England) by the Secretary of State and (in relation to Wales) by the Welsh Ministers: ibid Sch 4 para 20 (added by the Local Government Act 2003 s 127(1), Sch 7 paras 40, 54). See note 1 supra. For the meanings of 'England' and 'Wales' see para 1 note 2 ante. As to the Secretary of State and the Welsh Ministers see para 228 ante.

3 Local Government Finance Act 1992 Sch 4 para 16.

348. Provision for the termination of proceedings. Regulations made under the provisions that govern the recovery of sums which have become payable in respect of the council tax but have not been paid[1] may provide that in a case where[2]:

(1) proceedings under the regulations have been taken as regards the recovery of any sum which has become payable in respect of the council tax but has not been paid[3]; and

(2) the outstanding amount[4] is paid or tendered to the authority to which it is payable[5],

the authority must accept the amount, no further steps must be taken as regards its recovery, and any person committed to prison in pursuance of the proceedings must be released[6].

In a case where costs and charges are relevant the outstanding amount is to be treated as augmented by a sum (of a prescribed[7] amount or an amount determined in accordance with prescribed rules) in respect of costs and charges incurred in the proceedings up to the time of payment or tender[8].

1 Ie regulations under the Local Government Finance Act 1992 s 14(3), Sch 4 para 1(1) (prospectively amended) (see para 310 ante): see Sch 4 para 17(1). As to the making of regulations under the Local Government Finance Act 1992 generally see para 228 ante; and as to the regulations so made under Sch 4 para 1(1) (prospectively amended) see para 310 note 2 ante; and see paras 315, 323, 335, 339 ante. As to council tax generally see para 227 et seq ante.
2 Ibid Sch 4 para 17(1).
3 Ibid Sch 4 para 17(1)(a).
4 For these purposes, the outstanding amount is an amount equal to the sum concerned or to so much of it as remains outstanding (as the case may be): ibid Sch 4 para 17(2).
5 Ibid Sch 4 para 17(1)(b).
6 Ibid Sch 4 para 17(1).
7 For these purposes, 'prescribed' means prescribed by regulations made (in relation to England) by the Secretary of State and (in relation to Wales) by the Welsh Ministers: ibid Sch 4 para 20 (added by the Local Government Act 2003 s 127(1), Sch 7 paras 40, 54). See note 1 supra. For the meanings of 'England' and 'Wales' see para 1 note 2 ante. As to the Secretary of State and the Welsh Ministers see para 228 ante.
8 Local Government Finance Act 1992 Sch 4 para 17(3).

(vii) Offences

349. Provision for offences. Regulations made under the provisions that govern the recovery of sums which have become payable in respect of the council tax but have not been paid[1] may provide that a person is guilty of an offence if he is required[2] to supply information[3], and:

(1) he fails without reasonable excuse to supply the information in accordance with the provision[4]; or
(2) in supplying information in purported compliance with the provision he makes a statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular[5].

Such regulations may provide that:

(a) a person is guilty of an offence if he is required[6] to comply with an attachment of earnings order and fails to do so[7];
(b) it is a defence for a person charged with such an offence to prove that he took all reasonable steps to comply with the order[8].

Such regulations may provide that a person is guilty of an offence if he is required[9] to notify another person[10], and:

(i) he fails without reasonable excuse to notify the other person in accordance with the provision[11]; or
(ii) in notifying the other person in purported compliance with the provision he makes a statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular[12].

Such regulations may provide that a person guilty of any such offence[13] is liable on summary conviction to a fine not exceeding[14] either level 2 on the standard scale[15] or level 3 on the standard scale[16].

1 Ie regulations under the Local Government Finance Act 1992 s 14(3), Sch 4 para 1(1) (prospectively amended) (see para 310 ante): see Sch 4 para 18(1). As to the making of regulations under the Local

Government Finance Act 1992 generally see para 228 ante; and as to the regulations so made under Sch 4 para 1(1) (prospectively amended) see para 310 note 2 ante; and see para 350 post. As to council tax generally see para 227 et seq ante.

2 Ie by any provision included by virtue of ibid Sch 4 para 4 (see para 316 ante): see Sch 4 para 18(1).

3 Ibid Sch 4 para 18(1). As to the meaning of 'information' see para 228 note 23 ante.

4 Ibid Sch 4 para 18(1)(a).

5 Ibid Sch 4 para 18(1)(b).

6 Ie by any provision included by virtue of ibid Sch 4 para 5(1)(d) or Sch 4 para 5(2)(b) (see para 324 ante): see Sch 4 para 18(2)(a).

7 Ibid Sch 4 para 18(2)(a).

8 Ibid Sch 4 para 18(2)(b).

9 Ie by any provision included by virtue of ibid Sch 4 para 5(2)(g), Sch 4 para 5(2)(h), Sch 4 para 5(3)(a) or Sch 4 para 5(3)(b) (see para 324 ante): see Sch 4 para 18(3).

10 Ibid Sch 4 para 18(3).

11 Ibid Sch 4 para 18(3)(a).

12 Ibid Sch 4 para 18(3)(b).

13 Ie an offence under any provision included by virtue of ibid Sch 4 para 18(1)–(3) (see the text and notes 1–12 supra): see Sch 4 para 18(4).

14 Ibid Sch 4 para 18(4).

15 Ibid Sch 4 para 18(4)(a). The fine referred to in the text applies where the provision under which a person is found guilty is included by virtue of Sch 4 para 18(1)(a) (see head (1) in the text) or Sch 4 para 18(3)(a) (see head (i) in the text): see Sch 4 para 18(4)(a). As to the standard scale see para 70 note 11 ante.

16 Ibid Sch 4 para 18(4)(b). The fine referred to in the text applies where the provision under which a person is found guilty is included by virtue of Sch 4 para 18(1)(b) (see head (2) in the text), Sch 4 para 18(2) (see heads (a), (b) in the text) or Sch 4 para 18(3)(b) (see head (ii) in the text): see Sch 4 para 18(4)(b).

350. Offences. A person is guilty of an offence if, following a request[1], he is under a duty to supply information[2], and:

(1) he fails without reasonable excuse to supply the information[3]; or

(2) in supplying information in purported compliance with that request[4] he makes a statement which is false in a material particular or recklessly makes a statement which is false in a material particular[5].

A person is guilty of an offence if, following the service on him of a copy of an attachment of allowances order[6] or an attachment of earnings order[7], he is under a duty to comply with the order[8] and he fails to do so[9]. It is a defence for a person charged with such an offence[10] to prove that he took all reasonable steps to comply with the order[11].

A person is guilty of an offence if he is under a duty to notify another person[12], and:

(a) he fails without reasonable excuse to notify the other person in accordance with the provision concerned[13]; or

(b) in notifying the other person in purported compliance with the provision concerned, he makes a statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular[14].

1 Ie under the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 36(2)(b) (see para 317 ante): see reg 56(1).

2 Ibid reg 56(1).

3 Ibid reg 56(1)(a). The text refers to failure without reasonable excuse to supply the requested information in accordance with reg 36(2)(b) (see para 317 ante): see reg 56(1)(a). A person guilty of an offence under reg 56(1)(a) is liable on summary conviction to a fine not exceeding level 2 on the standard scale: reg 56(5). As to the standard scale see para 70 note 11 ante.

4 Ie in purported compliance with ibid reg 36 (as amended) (see para 317 ante): see reg 56(1)(b).

5 Ibid reg 56(1)(b). A person guilty of an offence under reg 56(1)(b) is liable on summary conviction to a fine not exceeding level 3 on the standard scale: reg 56(6).

6 For the meaning of 'attachment of allowances order' see para 312 note 7 ante. As to the service or giving of notices generally see para 280 ante.

7 For the meaning of 'attachment of earnings order' see para 312 note 8 ante.

8 Ie by virtue of the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 37(3) (see para 325 ante), including reg 37(3) as applied for the purposes of attachment of allowances orders by reg 44(7) (see para 332 ante): see reg 56(2).
9 Ibid reg 56(2). A person guilty of an offence under reg 56(2) is liable on summary conviction to a fine not exceeding level 3 on the standard scale: reg 56(6).
10 Ie under ibid reg 56(2) (see the text and notes 6–9 supra): see reg 56(3).
11 Ibid reg 56(3).
12 Ibid reg 56(4). The text refers to a duty to notify another person under reg 39(2), (3) (see para 327 ante) or under reg 39(4), (5) (see para 327 ante) (including those provisions as applied for the purposes of attachment of allowances orders by reg 44(7) (see para 332 ante)), reg 39(6), (7) (see para 327 ante) or reg 40 (see para 328 ante): see reg 56(4).
13 Ibid reg 56(4)(a). A person guilty of an offence under reg 56(4)(a) is liable on summary conviction to a fine not exceeding level 2 on the standard scale: reg 56(5).
14 Ibid reg 56(4)(b). A person guilty of an offence under reg 56(4)(b) is liable on summary conviction to a fine not exceeding level 3 on the standard scale: reg 56(6).

(viii) Restriction on Debtors Participating in Local Authority Proceedings

351. Council tax: restrictions on voting. If, at any time, a sum[1] which has become payable by a specified member of a local authority[2] or by a council manager[3] in respect of the council tax has not been paid by him, and has remained unpaid for at least two months[4], and if such a member or council manager is present at a meeting of the authority or committee or executive[5] at which any of the following matters is the subject of consideration, namely[6]:

(1) any calculation required by the provisions of the Local Government Finance Act 1992 which govern the setting of council tax[7] or precepts[8] or which govern the limitation of either council tax or precepts[9];
(2) any recommendation, resolution or other decision which might affect the making of any such calculation[10]; or
(3) the exercise of any functions relating to the administration and enforcement of council tax[11],

he must at the meeting, and as soon as practicable after its commencement, disclose the fact that these conditions apply to him, and he must not vote on any question with respect to the matter[12].

If a person fails so to comply, he is for each offence liable on summary conviction to a fine not exceeding level 3 on the standard scale[13], unless he proves that he did not know either that these restrictions applied to him at the time of the meeting[14] or that the matter in question was the subject of consideration at the meeting[15]. A prosecution for such an offence must not be instituted except by or on behalf of the Director of Public Prosecutions[16].

1 Ie a sum falling within the Local Government Finance Act 1992 s 14(3), Sch 4 para 1(1)(a) (see para 310 ante): see s 106(1)(a). As to council tax generally see para 227 et seq ante.

Provision was also made in relation to a sum falling within the Local Government Finance Act 1988 Sch 4 para 1(1)(a), (b), (d) or (ee) (repealed with savings) (corresponding provisions with respect to community charges): see the Local Government Finance Act 1992 s 106(1)(b). With effect from 1 April 1993, the community charge was abolished and replaced with the council tax: see para 227 ante.

2 Ie a member of a local authority, or a member of a committee of a local authority or a member of a joint committee of two or more local authorities (including in either case a sub-committee): see ibid s 106(1) (as amended: see note 3 infra). For these purposes, 'local authority' has the same meaning as in the Local Government Act 1972 ss 94, 97 (both as amended) (pecuniary interests) (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 168): Local Government Finance Act 1992 s 106(6).
3 Ie within the meaning of the Local Government Act 2000 s 11(4)(b) (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 212): see the Local Government Finance Act 1992 s 106(1) (amended in relation to England by the Local Authorities (Executive and Alternative Arrangements) (Modification of Enactments and Other Provisions) (England) Order 2001, SI 2001/2237, arts 1(2), 2(n), 28(1)(a); in relation to Wales by the Local Authorities (Executive and Alternative Arrangements) (Modification of Enactments and Further Provisions) (Wales) Order 2002, SI 2002/808, arts 2(m), 27(1)(a)).

4 See the Local Government Finance Act 1992 s 106(1) (as amended: see note 3 supra).
5 Ie including, in the case of a local authority which is operating executive arrangements (as to which see LOCAL GOVERNMENT vol 29(1) (Reissue) para 207 et seq), the executive of that authority or any committee of that executive: see ibid s 106(2) (as amended: see note 6 infra).
6 See ibid s 106(2) (amended in relation to England by the Local Authorities (Executive and Alternative Arrangements) (Modification of Enactments and Other Provisions) (England) Order 2001, SI 2001/2237, arts 1(2), 2(n), 28(1)(b); in relation to Wales by the Local Authorities (Executive and Alternative Arrangements) (Modification of Enactments and Further Provisions) (Wales) Order 2002, SI 2002/808, arts 2(m), 27(1)(b)).

In the case of an authority which is operating executive arrangements, if or to the extent that any matter listed in the Local Government Finance Act 1992 s 106(2)(a)–(c) (as amended) (see heads (1) to (3) in the text) is the responsibility of the executive of that authority, no member of the executive to whom s 106 (as amended) applies may take any action or discharge any function with respect to that matter: s 106(2A) (added in relation to England by the Local Authorities (Executive and Alternative Arrangements) (Modification of Enactments and Other Provisions) (England) Order 2001, SI 2001/2237, arts 1(2), 2(n), 28(1)(c); in relation to Wales by the Local Authorities (Executive and Alternative Arrangements) (Modification of Enactments and Further Provisions) (Wales) Order 2002, SI 2002/808, arts 2(m), 27(1)(c)).

7 Ie the Local Government Finance Act 1992 Pt I Ch III (ss 30–38) (as amended) (see para 260 et seq ante): see s 106(2)(a) (as amended: see note 9 infra).
8 Ie ibid Pt I Ch IV (ss 39–52) (as amended) (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 524 et seq): see s 106(2)(a) (as amended: see note 9 infra).
9 Ie ibid Pt I Ch IVA (ss 52A–52Z) (as added and amended) (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 528 et seq): see s 106(2)(a) (amended by the Local Government Act 1999 s 30, Sch 1 Pt II paras 2, 8).
10 Local Government Finance Act 1992 s 106(2)(b)
11 Ibid s 106(2)(c). The text refers to any functions under Schs 2–4 (as amended) (see para 279 et seq ante): see s 106(2)(c). Corresponding provision was made with respect to community charges (functions under the Local Government Finance Act 1988 Schs 2–4 (repealed with savings)): see the Local Government Finance Act 1992 s 106(2)(c).
12 See ibid s 106(2) (as amended: see note 6 supra).

The Local Government Act 1972 s 97(1)–(3) (as amended) (removal or exclusion of liability etc) (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 174) applies in relation to the Local Government Finance Act 1992 s 106 (as amended) and any disability imposed by it as it applies in relation to the Local Government Act 1972 s 94 (as amended) (pecuniary interests) (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 168) and any disability imposed by it: Local Government Finance Act 1992 s 106(5).

13 As to the standard scale see para 70 note 11 ante.
14 Local Government Finance Act 1992 s 106(3)(a).
15 Ibid s 106(3)(b).
16 Ibid s 106(4). As to the Director of Public Prosecutions see CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(3) (2006 Reissue) paras 1066, 1079 et seq.

(8) COUNCIL TAX APPEALS

(i) Valuation Tribunals

352. In general. Valuation and community charge tribunals[1] are now known as valuation tribunals[2]. In addition to the jurisdiction conferred on them by or under the Local Government Finance Act 1988[3], valuation tribunals exercise the jurisdiction conferred on them by or under the Local Government Finance Act 1992[4].

1 Ie tribunals established under the Local Government Finance Act 1988 s 136, Sch 11 (as amended) (see para 147 et seq ante): see the Local Government Finance Act 1992 s 15(1). As to valuation tribunals generally see para 147 et seq ante; and in relation to council tax see para 353 et seq post. With effect from 1 April 1993, the community charge was abolished and replaced with the council tax: see para 227 ante.
2 Ibid ss 15(1), 69(1).
3 As to the jurisdiction of valuation tribunals under the Local Government Finance Act 1988 see para 147 et seq ante.
4 Local Government Finance Act 1992 s 15(2). The text refers to the jurisdiction conferred on valuation tribunals by s 16 (see para 353 post), by regulations made under s 24 (as amended) (alteration of lists) (see para 273 ante) and by s 14(2), Sch 3 para 3 (penalties) (see para 308 ante): see s 15(2).

(ii) Appeals to Valuation Tribunals

353. Appeals to valuation tribunals. A person may appeal to a valuation tribunal[1] if he is aggrieved by[2]:

(1) any decision of a billing authority[3] that a dwelling[4] is a chargeable dwelling[5], or that he is liable to pay council tax[6] in respect of such a dwelling[7]; or

(2) any calculation made by such an authority of an amount[8] which he is liable to pay to the authority in respect of council tax[9].

However, no such appeal may be made unless the aggrieved person serves a written notice[10], and one of the following conditions is fulfilled[11], namely that:

(a) the aggrieved person is notified in writing, by the authority on which he served the notice, that the authority believes the grievance is not well founded, but the person is still aggrieved[12];

(b) the aggrieved person is notified in writing, by the authority on which he served the notice, that steps have been taken to deal with the grievance, but the person is still aggrieved[13];

(c) the period of two months, beginning with the date of service of the aggrieved person's notice, has ended without his being notified under head (a) or (b) above[14].

Where a written notice is served on an authority by an aggrieved person in this way[15], the authority must[16]:

(i) consider the matter to which the notice relates[17];

(ii) include in any notification under head (a) above the reasons for the belief concerned[18];

(iii) include in any notification under head (b) above a statement of the steps taken[19].

1 As to valuation tribunals and the jurisdiction conferred on them by or under the Local Government Finance Act 1992 see paras 351–352 ante.

2 Local Government Finance Act 1992 s 16(1). As to persons aggrieved see ADMINISTRATIVE LAW vol 1(1) (2001 Reissue) para 56.

Section 16(1) does not apply where the grounds on which the person concerned is aggrieved fall within such category or categories as may be prescribed: s 16(3). 'Prescribed' means prescribed by regulations made by the Secretary of State (or by the Welsh Ministers, as the case may be): s 116(1). As to the Secretary of State and the Welsh Ministers, and as to the making of regulations under the Local Government Finance Act 1992 generally, see para 228 ante. Accordingly, the provisions of s 16(1) do not apply where the ground on which the person concerned is aggrieved is that any assumption as to the future that is required by the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, Pt V (regs 17–31) (as amended) (see para 292 et seq ante) to be made in the calculation of an amount may prove to be inaccurate: reg 30.

As to the relative jurisdiction of a valuation tribunal and magistrates' court to investigate the question whether an authority was in breach of the Council Tax (Administration and Enforcement) Regulations 1992, SI 1992/613, reg 18 (as amended) (demand notices) (see para 292 ante) or reg 19 (as substituted) (service of demand notices) (see para 295 ante) see *Hardy v Sefton Metropolitan Borough Council* [2006] EWHC 1928 (Admin), [2007] RA 140, [2006] All ER (D) 409 (Jul).

3 As to billing authorities see para 229 ante.

4 For the meaning of 'dwelling' see para 232 ante.

5 For the meaning of 'chargeable dwelling' see para 233 ante.

6 As to council tax generally see para 227 et seq ante; and as to liability to council tax see para 231 et seq ante.

7 Local Government Finance Act 1992 s 16(1)(a).

8 For these purposes, the reference to any calculation of an amount includes a reference to any estimate of the amount: ibid s 16(2). See note 2 supra.

9 Ibid s 16(1)(b). As to references to an amount payable in respect of council tax see para 244 note 3 ante.

10 Ibid s 16(4)(a). The text refers to a notice served under s 16: see s 16(4)(a). A notice under s 16(4) must be served on the billing authority concerned (s 16(5)); and must state the matter by which and the grounds on which the person is aggrieved (s 16(6)).

11 Ibid s 16(4)(b).

12 Ibid s 16(7)(a).
13 Ibid s 16(7)(b).
14 Ibid s 16(7)(c).
15 Ie under ibid s 16(4) (see the text and notes 10–11 supra): see s 16(8).
16 Ibid s 16(8).
17 Ibid s 16(8)(a).
18 Ibid s 16(8)(b).
19 Ibid s 16(8)(c).

354. Jurisdiction. An appeal[1] other than an appeal against the imposition of a penalty[2] is to be dealt with by the tribunal[3] established for the area[4] in which is situated the dwelling to which the appeal relates[5]. An appeal against the imposition of a penalty is to be dealt with by the tribunal whose area of jurisdiction includes the area of the billing authority[6] concerned[7].

Where:

(1) more than one billing authority has decided that a person is liable to pay council tax for the same day because he is a resident in relation to a dwelling[8]; and
(2) the person appeals under the Local Government Finance Act 1992[9] against both or all of the decisions[10]; and
(3) but for this provision, the appeals would fall to be dealt with by different valuation tribunals[11],

the appeals are to be dealt with by such one of those tribunals as he may, by notice in writing given to the clerk[12], elect[13]. Where the appellant is an employee[14] or member of the valuation tribunal which, but for this provision, would deal with his appeal, that tribunal must not deal with it; but it must be dealt with by such other tribunal as may be appointed for the purpose, in relation to England, by the Secretary of State[15] or, in relation to Wales, by the Valuation Tribunal Service for Wales[16].

Where the appellant is a former member or employee[17] of the tribunal by which, in pursuance of this provision, his appeal would fall to be dealt with, and the president[18] determines that it must not be dealt with by the tribunal, it must be dealt with by such other tribunal as may be appointed for the purpose, in relation to England, by the Secretary of State or, in relation to Wales, by the Valuation Tribunal Service for Wales[19].

Where it appears to the president of a tribunal which, but for this provision, would deal with an appeal, that by reason of a conflict of interests (or the appearance of such a conflict) it would be inappropriate for an appeal to be dealt with by that tribunal, the Secretary of State, in relation to England, or the Valuation Tribunal Service for Wales, in relation to Wales, must, on being so notified by the president, appoint another tribunal to deal with that appeal[20].

1 For these purposes, 'appeal', unless the context otherwise requires, means an appeal under: (1) the Local Government Finance Act 1992 s 16 (see para 353 ante) (appeals: general); (2) s 14(2), Sch 3 para 3(1) (see para 308 ante) (penalties); or (3) the Local Government Finance Act 1988 s 46A(1) (as added), Sch 4A para 4 (as added and amended) (see para 68 ante) as it applies for the purposes of the Local Government Finance Act 1992 Pt I (ss 1–69) (as amended) (see para 231 et seq ante) ('appeal against a completion notice'): see the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 34(1), (2)(b) (reg 34 added by SI 1993/292); and the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 3(1)(a), (d). 'Completion notice' means a notice under the Local Government Finance Act 1988 Sch 4A (as added and amended) as it applies for the purposes of the Local Government Finance Act 1992 Pt I (as amended): see the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 34(1), (2)(b) (as so added); and the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 3(1). As to the completion notice provisions as so applied see para 236 ante.

2 For these purposes, 'penalty' means a penalty imposed under the Local Government Finance Act 1992 Sch 3 para 1 (see para 308 ante): Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 34(1), (2)(b) (as added: see note 1 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 3(1).

3 For these purposes, 'tribunal', unless the context otherwise requires, means the members of a tribunal convened in accordance with, in relation to England, the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, Pt V (regs 34–52) (as added and amended) or, in relation to Wales, the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, Pt 5 (regs 24–42) (as the case may be) for the purposes of disposing of an appeal: see the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 34(1) (as added: see note 1 supra); and the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 3(1). For the meanings of 'England' and 'Wales' see para 1 note 2 ante.

4 For the meaning of 'area' in relation to a tribunal see para 147 note 8 ante.

5 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 35(1)(a) (reg 35 added by SI 1993/292); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 25(1)(a). For the meaning of 'dwelling' under the Local Government Finance Act 1992 see para 232 ante.

Notwithstanding the provisions of the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 25, where it appears appropriate to the Valuation Tribunal Service for Wales, it may appoint a special tribunal to deal with an appeal: reg 25(7). For these purposes, 'special tribunal' means a tribunal established under reg 25(7): see reg 3(1). In cases dealt with under reg 25(7), the Valuation Tribunal Service for Wales is to appoint one of the clerks appointed under reg 18(5) or reg 18(7) (see para 150 ante) to serve that Tribunal: see reg 25(9). As to the clerks see also note 12 infra. As to the Valuation Tribunal Service for Wales see para 150 et seq ante.

6 As to billing authorities see para 229 ante.

7 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 35(1)(b) (as added: see note 5 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 25(1)(b).

8 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 35(2)(a) (as added: see note 5 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 25(2)(a). As to council tax generally see para 227 et seq ante; and as to liability to council tax see para 231 et seq ante.

9 Ie under the Local Government Finance Act 1992 s 16(1) (see para 353 ante): see the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 35(2)(b) (as added: see note 5 supra); and the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, 25(2)(b).

10 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 35(2)(b) (as added: see note 5 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 25(2)(b).

11 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 35(2)(c) (as added: see note 5 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 25(2)(c).

12 In relation to England, the notice must be given to the clerks of those different tribunals: see the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 35(2) (as added: see note 5 supra). In relation to Wales, the notice must be given to the clerk of such one of the tribunals as the person may elect: see the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 25(2).

In relation to England, 'clerk' means the clerk of the tribunal appointed in accordance with the Local Government Act 2003 s 105(9), Sch 4 paras 8–9 (see para 149 ante): Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 2(1) (definition substituted by SI 2004/482). In relation to Wales, for the purposes of the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, Pt 5, 'clerk' means an interim clerk appointed under reg 18(5) or a clerk appointed under reg 18(7) (see para 150 ante), and any other employee of the Valuation Tribunal Service for Wales appointed under reg 18(8) to which part or all of the functions of the clerk in Pt 5 have been delegated: reg 24(2).

13 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 35(2) (reg 35 as added (see note 5 supra); reg 35(2) amended by SI 2000/409); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 25(2).

14 Where the appellant is an employee of the Valuation Tribunal Service for Wales, the appeal is to be dealt with by a special tribunal as may be appointed for the purpose by the Valuation Tribunal Service for Wales: ibid reg 25(5). For these purposes, 'special tribunal' means a tribunal established under reg 25(5): see reg 3(1). In cases dealt with under reg 25(5), the Valuation Tribunal Service for Wales is to appoint one of the clerks appointed under reg 18(5) or reg 18(7) (see para 150 ante) to serve that tribunal: see reg 25(9).

15 As to the Secretary of State see para 228 ante.

16 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 35(3) (as added: see note 5 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 25(3).

17 See note 14 supra.

18 As to the president see para 148 ante.

19 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 35(4) (reg 35 as added (see note 5 supra); reg 35(4) added, in relation to tribunals the area of jurisdiction of which is in England, by SI 1995/363); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 25(4).

Where: (1) the appellant is a former member or employee of an old tribunal (i e a Valuation Tribunal in Wales which existed immediately before 15 February 2006: see ibid reg 3(1)) (reg 25(8)(a)); and (2) in pursuance of reg 25(1), (2) (see the text and notes 1–13 supra), his appeal would fall to be dealt with by

a tribunal whose area includes all or part of the area of that old tribunal (reg 25(8)(b)); and (3) the president determines that the appeal is not to be dealt with by that tribunal (reg 25(8)(b)), it must be dealt with by a special tribunal as may be appointed for the purpose by the Valuation Tribunal Service for Wales (reg 25(8)). For these purposes, 'special tribunal' means a tribunal established under reg 25(8): see reg 3(1). In cases dealt with under reg 25(8), the Valuation Tribunal Service for Wales is to appoint one of the clerks appointed under reg 18(5) or reg 18(7) (see para 150 ante) to serve that tribunal: see reg 25(9).

20 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 35(2A) (reg 35 as added (see note 5 supra); reg 35(2A) added by SI 2000/409); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 25(6).

355. Initiating an appeal. An appeal in relation to the council tax[1] is initiated by serving on the clerk[2] of the tribunal[3] having jurisdiction in relation to the appeal[4] a notice in writing (a 'notice of appeal')[5]. Where the appeal is made under the Local Government Finance Act 1992[6], the notice of appeal must contain the following information[7]:

(1) the grounds on which the appeal is made[8];
(2) the date on which the notice under the Local Government Finance Act 1992[9] was served on the billing authority[10]; and
(3) the date, if any, on which the appellant was notified by the authority under the Local Government Finance Act 1992[11].

Where the appeal is an appeal against a completion notice[12], the notice of appeal must be accompanied by a copy of the completion notice[13], and by a statement of the grounds on which the appeal is made[14].

Where the appeal is against the imposition of a penalty[15], the notice of appeal must contain the grounds on which the appeal is made[16], and the date of service of written notice of the imposition of a penalty[17].

The clerk must, within two weeks of service of the notice of appeal, notify the appellant that he has received it, and must serve a copy of it on the billing authority whose decision, action or notice is the subject of the appeal, and any other billing authority appearing to the clerk to be concerned[18].

1 For the meaning of 'appeal' see para 354 note 1 ante. As to council tax generally see para 227 et seq ante.
2 For the meaning of 'clerk' see para 354 note 12 ante.
3 For the meaning of 'tribunal' see para 354 note 3 ante.
4 As to jurisdiction see para 354 ante.
5 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 37(1) (reg 37 added by SI 1993/292); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 27(1). Accordingly, 'notice of appeal' means a notice under the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 37(1) (as added) or the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 27(1): Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 34(1) (reg 34 added by SI 1993/292); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 3(1).
6 Ie under the Local Government Finance Act 1992 s 16 (see para 353 ante): see the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 37(2) (as added: see note 5 supra); and the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 27(2).
7 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 37(2) (as added: see note 5 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 27(2).
8 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 37(2)(a) (as added: see note 5 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 27(2)(a).
9 Ie under the Local Government Finance Act 1992 s 16(4) (see para 353 ante): see the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 37(2)(b) (as added: see note 5 supra); and the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 27(2)(b).
10 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 37(2)(b) (as added: see note 5 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 27(2)(b). As to billing authorities para 229 ante.
11 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 37(2)(c) (as added: see note 5 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 27(2)(c). The text refers to the date of notification as mentioned in the Local Government Finance Act 1992 s 16(7)(a) or

s 16(7)(b) (see para 353 ante): see the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 37(2)(c) (as so added); and the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 27(2)(c).

12 For the meanings of 'appeal against a completion notice' and 'completion notice' see para 354 note 1 ante.

13 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 37(3)(a) (as added: see note 5 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 27(3)(a).

14 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 37(3)(b) (as added: see note 5 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 27(3)(b).

15 For the meaning of 'penalty' see para 354 note 2 ante.

16 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 37(4)(a) (as added: see note 5 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 27(4)(a).

17 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 37(4)(b) (as added: see note 5 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 27(4)(b).

18 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 37(5) (as added: see note 5 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 27(5).

356. Time limits. An appeal in relation to the council tax[1] by a person who remains aggrieved despite notification from the billing authority[2] that his grievance has been dealt with[3] must be dismissed unless it is initiated in accordance with the council tax tribunal regulations[4], not later than the expiry of two months beginning with the date of service of the billing authority's notice[5]. Where the aggrieved person has not received any such notification, and a period of two months has elapsed[6], an appeal by the aggrieved person must be dismissed unless it is initiated within four months of the date of service of his notice[7].

An appeal against the imposition of a penalty[8] must be dismissed unless it is initiated not later than the expiry of two months beginning with the date of service of written notice of the imposition of the penalty[9].

An appeal against a completion notice[10] must be dismissed unless it is initiated not later than the expiry of four weeks beginning with the date of service of the notice[11].

Notwithstanding the above provisions, the president[12] may authorise an appeal to be entertained where he is satisfied that the failure of the person aggrieved to initiate the appeal as provided has arisen by reason of circumstances beyond that person's control[13].

1 For the meaning of 'appeal' see para 354 note 1 ante. As to council tax generally see para 227 et seq ante.

2 As to billing authorities see para 229 ante.

3 Ie a person in relation to whom the condition mentioned in the Local Government Finance Act 1992 s 16(7)(a) or s 16(7)(b) (see para 353 ante) is fulfilled: see the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 36(1) (as added: see note 5 infra); and the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 26(1).

4 Ie in accordance with, in relation to England, the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, Pt V (regs 34–52) (as added and amended) or, in relation to Wales, the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, Pt 5 (regs 24–42) (as the case may be) (see paras 354, 355 ante, 357 et seq post): see the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 36(1) (as added: see note 5 infra); and the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 26(1).

5 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 36(1) (reg 36 added by SI 1993/292); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 26(1). The text refers to the date of service of the billing authority's notice under the Local Government Finance Act 1992 s 16 (see para 353 ante): see the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 36(1) (as so added); and the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 26(1).

6 Ie where the condition mentioned in the Local Government Finance Act 1992 s 16(7)(c) (see para 353 ante) is fulfilled: see the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 36(2) (as added: see note 5 supra); and the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 26(2).

7 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 36(2) (as added: see note 5 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 26(2). The text refers to the date of service of the aggrieved person's notice under the Local Government Finance Act 1992

s 16(4) (see para 353 ante): see the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 36(2) (as so added); and the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 26(2).

8 Ie under the Local Government Finance Act 1992 s 14(2), Sch 3 para 3 (see para 308 ante): see the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 36(3) (as added: see note 5 supra); and the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 26(3). For the meaning of 'penalty' see para 354 note 2 ante.

9 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 36(3)(a) (as added: see note 5 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 26(3). The Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 36(3) (as added) also provided for a period of two months beginning with the day on which reg 36 (as added) came into force (i e 12 March 1993: see the Valuation and Community Charge Tribunals (Amendment) (No. 2) Regulations 1993, SI 1993/615, reg 1), if that date was later: see the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 36(3)(b) (reg 36(3)(b) added by SI 1993/292 (as amended by SI 1993/615)).

10 For the meanings of 'appeal against a completion notice' and 'completion notice' see para 354 note 1 ante.

11 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 36(4)(a) (as added: see note 5 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 26(4). The Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 36(4) (as added) also provided for a period of two months beginning with the day on which reg 36 (as added) came into force (see note 9 supra), if that date was later: see reg 36(4)(b) (reg 36(4)(b) added by SI 1993/292 (as amended by SI 1993/615)).

12 As to the president see para 148 ante. For the purposes of the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 26, 'president' also means, in cases dealt with under reg 25(5), (7)–(8) (see para 354 ante), the Director of the Governing Council of the Valuation Tribunal Service for Wales: reg 26(6). As to the Governing Council of the Valuation Tribunal Service for Wales see para 150 ante.

13 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 36(5) (as added: see note 5 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 26(5).

357. Arrangements for determination of appeals. It is the duty of the president of a valuation tribunal[1] to secure that arrangements are made for appeals in relation to the council tax[2] to be determined in accordance with provisions of the council tax tribunal regulations[3].

Where an appeal under the council tax tribunal regulations[4] and another appeal (relating to the alteration of any valuation list[5]) relate to the same property[6]:

(1) the president must secure that the appeals are dealt with in such order as appears to him best designed to secure the interests of justice[7];

(2) the valuation officer[8] or the listing officer[9] (or, in relation to England, the community charges registration officer[10]), as the case may be, must be joined as a party to the appeal under the council tax tribunal regulations[11];

(3) the billing authority[12] must be joined as a party to the appeal under the alteration of valuation list provisions[13].

The clerk[14] must as soon as is reasonably practicable serve a copy of the notice of appeal on a person who has been made a party in accordance with head (2) or head (3) above[15].

1 As to the president see para 148 ante. For the purposes of the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 28, 'President of a Valuation Tribunal' also means, in cases dealt with under reg 25(5), (7)–(8) (see para 354 ante), the Director of the Governing Council of the Valuation Tribunal Service for Wales: reg 28(6). As to the Governing Council of the Valuation Tribunal Service for Wales see para 150 ante. As to valuation tribunals generally see para 147 et seq ante; and in relation to council tax see para 351 et seq ante.

2 For the meaning of 'appeal' see para 354 note 1 ante. As to council tax generally see para 227 et seq ante.

3 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 38(1) (reg 38 added by SI 1993/292); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 28(1). The text refers to the provisions of, in relation to England, the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, regs 39–52 (as added and amended) or, in relation to Wales, the

Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, regs 29–42 (as the case may be) (see para 358 et seq post): see the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 38(1) (as so added); and the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 28(1).

4 Ie, in relation to England, under the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, Pt V (regs 34–52) (as added and amended) or, in relation to Wales, the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, Pt 5 (regs 24–42) (as the case may be) (see paras 354–356 ante, 358 et seq post): see the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 38(2) (as added: see note 3 supra); and the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 28(2).

5 Ie, in relation to England, under one or more of the following:

(1) the Non-Domestic Rating (Alteration of Lists and Appeals) Regulations 1993, SI 1993/291, reg 12 (now revoked) (Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 38(2)(b) (as added: see note 3 supra));

(2) the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 13 (see para 138 ante) (Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 38(2)(bb) (reg 38 as added (see note 3 supra); reg 38(2)(bb) added by SI 2005/659));

(3) the Council Tax (Alteration of Lists and Appeals) Regulations 1993, SI 1993/290, reg 13 (see para 274 ante) (Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 38(2)(c) (reg 38(2)(c) added by SI 1993/292 (as amended by SI 1993/615))).

In addition to heads (1) to (3) supra, the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 38 (as added and amended) also made provision for appeals under Pt IV (regs 15–33) (as amended) (community charge appeals): see reg 38(2)(a) (as so added). With effect from 1 April 1993, the community charge was abolished and replaced with the council tax: see para 227 ante.

In relation to Wales, the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 28(2) applies where an appeal under Pt 5 (see the text and note 4 supra) and an appeal under one or more of the following:

(a) regulations made under the Local Government Finance Act 1988 s 55 (as amended) (see para 128 ante) (alteration of non-domestic rating lists) (Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 28(2)(a));

(b) regulations made under the Local Government Finance Act 1992 s 24 (as amended) (alteration of council tax valuation lists) (see para 273 ante) (Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 28(2)(b)),

relate to the same property (reg 28(2)).

6 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 38(2) (as added: see note 3 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 28(2).

7 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 38(3)(a) (as added: see note 3 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 28(3)(a).

8 For these purposes, 'valuation officer' means the officer appointed under the Local Government Finance Act 1988 s 61(1)(a) (see para 6 ante) for the authority in whose area the property concerned is situated: see the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 38(4) (as added: see note 3 supra); and the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 28(4). For the meaning of 'area' in relation to a tribunal see para 147 note 8 ante.

9 For these purposes, 'listing officer', in relation to an appeal, means the officer appointed under the Local Government Finance Act 1992 s 20 (see para 230 ante) for the authority in whose area the dwelling to which the appeal relates is situated: see the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 34(1), (2)(b) (reg 34 added by SI 1993/292); and the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 3(1).

10 For these purposes, 'community charges registration officer' means the officer appointed under the Local Government Finance Act 1988 s 26 (repealed, subject to a saving) for the authority in whose area the property concerned is situated: see the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 38(4) (as added: see note 3 supra).

11 Ibid reg 38(3)(b) (as added: see note 3 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 28(3)(b). The text refers to an appeal, in relation to England, under the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, Pt V (as added and amended) or, in relation to Wales, the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, Pt 5 (as the case may be) (see paras 354–356 ante, 358 et seq post): see the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 38(3)(b) (as so added); and the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 28(3)(b). Any reference to a party to an appeal includes the appellant and any person entitled to be served with a copy of the appellant's notice of appeal: see the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 34(2)(a) (as added: see

note 9 supra); and the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 24(1)(a). For the meaning of 'notice of appeal' see para 355 note 5 ante.

12 As to billing authorities see para 229 ante.

13 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 38(3)(c) (added by SI 1993/292 (as amended by SI 1993/615); amended by SI 2005/659); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 28(3)(b).

The text refers to an appeal, in relation to England, under one or more of the following:

(1) the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, Pt IV (as amended) (community charge appeals) (reg 38(2)(c) (as so added and amended));

(2) the Non-Domestic Rating (Alteration of Lists and Appeals) Regulations 1993, SI 1993/291, reg 12 (now revoked) (Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 38(2)(c) (as so added and amended));

(3) the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2005, SI 2005/659, reg 13 (see para 138 ante) (Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 38(2)(c) (as so added and amended));

(4) the Council Tax (Alteration of Lists and Appeals) Regulations 1993, SI 1993/290, reg 13 (see para 274 ante) (Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 38(2)(c) (as so added and amended)).

With effect from 1 April 1993, the community charge (see head (1) supra) was abolished and replaced with the council tax: see para 227 ante.

In relation to Wales, the text refers to an appeal under the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, Pt 5 (see paras 354–356 ante, 358 et seq post): see the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 28(3)(b).

14 For the meaning of 'clerk' see para 354 note 12 ante.

15 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 38(5) (as added: see note 3 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 28(5).

358. Withdrawal of appeals. An appeal in relation to the council tax[1] may be withdrawn by notice in writing given to the clerk[2] before the commencement of a hearing or of consideration of written representations by a tribunal[3].

The clerk must notify the appellant when he has received the notice of withdrawal, and must serve a copy of the notice[4] on all the other parties to the appeal[5].

1 For the meaning of 'appeal' see para 354 note 1 ante. As to council tax generally see para 227 et seq ante.

2 For the meaning of 'clerk' see para 354 note 12 ante.

3 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 39(1) (reg 39 added by SI 1993/292); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 29(1). For the meaning of 'tribunal' see para 354 note 3 ante. As to disposal by written representations see para 359 post; and as to hearings see para 360 et seq post.

4 As to the notices to be served see para 353 et seq ante.

5 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 39(2) (as added: see note 3 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 29(2). As to parties to an appeal see para 357 ante.

359. Disposal by written representations. An appeal in relation to the council tax[1] may be disposed of on the basis of written representations if all the parties[2] have given their agreement in writing[3].

Where all the parties have so given their agreement, the clerk[4] must serve notice[5] on the parties accordingly[6]; and, within four weeks of the service of such a notice on him, each party may serve on the clerk a notice stating[7]:

(1) his reasons or further reasons for the disagreement giving rise to the appeal[8]; or

(2) that he does not intend to make further representations[9].

A copy of any notice so served must be served by the clerk on the other party or parties to the appeal[10].

Any party on whom such a copy of a notice is so served may, within four weeks of that service, serve on the clerk a further notice stating that party's reply to the other party's statement, or that that party does not intend to make further representations, as the case may be; and the clerk must serve a copy of any such further notice on the other

party or parties[11]. After the expiry of four weeks beginning with the expiry of the period of four weeks last mentioned, the clerk must submit copies of[12]:

(a) any information transmitted to him under the regulations[13]; and

(b) any notice served on him under the written representations procedure[14],

to a tribunal[15]. The tribunal to which an appeal is referred in this way may, if it thinks fit:[16]

(i) require any party to furnish in writing further particulars of the grounds relied on and of any relevant facts or contentions[17]; or

(ii) order that the appeal be disposed of on the basis of a hearing[18].

1 For the meaning of 'appeal' see para 354 note 1 ante. As to council tax generally see para 227 et seq ante.
2 As to parties to an appeal see para 357 ante.
3 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 40(1) (reg 40 added by SI 1993/292); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 30(1).
4 For the meaning of 'clerk' see para 354 note 12 ante.
5 As to the notices to be served see para 353 et seq ante.
6 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 40(2) (as added: see note 3 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 30(2).
7 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 40(2) (as added: see note 3 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 30(2).
8 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 40(2)(a) (as added: see note 3 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 30(2)(a).
9 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 40(2)(b) (as added: see note 3 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 30(2)(b).
10 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 40(3) (as added: see note 3 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 30(3). The copy of the notice referred to in the text must be accompanied by a statement of the effect of the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 40(4), (5) (as added) or the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 30(4), (5), as the case may be (see the text and notes 11–15 infra): see the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 40(3) (as so added); and the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 30(3).
11 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 40(4) (as added: see note 3 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 30(4).
12 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 40(5) (as added: see note 3 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 30(5).
13 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 40(5)(a) (as added: see note 3 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 30(5)(a). The text refers to any information transmitted to the clerk under the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439 (as amended), or the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, as the case may be: see the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 40(5)(a) (as so added); and the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 30(5)(a).
14 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 40(5)(b) (as added: see note 3 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 30(5)(b). The text refers to any notice under the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 40(2) (as added) (see the text and notes 4–9 supra) or reg 40(4) (as added) (see the text and note 11 supra) or the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 30(2) (see the text and notes 4–9 supra) or reg 30(4) (see the text and note 11 supra), as the case may be: see the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 40(5)(b) (as so added); and the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 30(5)(b).
15 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 40(5) (as added: see note 3 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 30(5). The text refers to a tribunal constituted as provided in the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 44 (as added) or the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 34, as the case may be (see para 362 post): see the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 40(5) (as so added); and the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 30(5).
16 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 40(6) (as added: see note 3 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 30(6).
17 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 40(6)(a) (as added: see note 3 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 30(6)(a). Where a

tribunal requires any party to furnish any particulars under head (i) in the text, the clerk must serve a copy of such particulars on every other party, and each such party may within four weeks of such service serve on the clerk any further statement that party wishes to make in response: Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 40(7) (as so added); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 30(7).

18 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 40(6)(b) (as added: see note 3 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 30(6)(b). As to hearings see para 360 et seq post.

360. Notice of hearing. Where the appeal in relation to the council tax[1] is to be disposed of on the basis of a hearing, the clerk[2] must, not less than four weeks before the date in question, serve on the parties[3] notice[4] of the date, time and place appointed for the hearing[5]. The clerk must advertise the date, time and place appointed for any hearing by causing a notice giving such information to be conspicuously displayed[6]:

(1) (in relation to England only) at the tribunal's office[7];
(2) outside an office of the billing authority[8] appointed by the authority for that purpose[9]; or
(3) in another place within that authority's area[10].

Such a notice must name a place where a list of the appeals to be heard may be inspected[11]. Where the hearing of an appeal has been postponed, the clerk must take such steps as are reasonably practicable in the time available to notify the parties of the postponement[12] and to advertise the postponement[13].

1 For the meaning of 'appeal' see para 354 note 1 ante. As to council tax generally see para 227 et seq ante.
2 For the meaning of 'clerk' see para 354 note 12 ante.
3 As to parties to an appeal see para 357 ante.
4 As to the notices to be served see para 353 et seq ante.
5 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 41(1) (reg 41 added by SI 1993/292); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 31(1).
6 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 41(2) (as added: see note 5 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 31(2).
7 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 41(2)(a) (as added: see note 5 supra). For the meaning of 'tribunal' see para 354 note 3 ante.
8 As to billing authorities see para 229 ante.
9 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 41(2)(b) (as added: see note 5 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 31(2)(a).
10 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 41(2)(c) (as added: see note 5 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 31(2)(b). For the meaning of 'area' in relation to a tribunal see para 147 note 8 ante.
11 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 41(3) (as added: see note 5 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 31(3).
12 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 41(4)(a) (as added: see note 5 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 31(4)(a).
13 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 41(4)(b) (as added: see note 5 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 31(4)(b).

361. Disqualification from participating. A person is disqualified from participating as a member[1] in the hearing or determination of (or acting as clerk[2] or officer of a tribunal[3] in relation to) an appeal in relation to the council tax[4] if he is a member of the relevant billing authority[5].

A person also is disqualified from participating as a member in the hearing or determination of (or acting as clerk or officer of a tribunal in relation to) an appeal if the appellant is that person's spouse or civil partner or if that person supports the appellant financially or is liable to do so[6].

A person is not otherwise disqualified from acting in any capacity in relation to an appeal by reason only of the fact that he is a member of an authority which derives revenue directly or indirectly from payments in respect of council tax which may be affected by the exercise of his functions[7].

1 As to membership of valuation tribunals see para 148 ante.
2 For the meaning of 'clerk' see para 354 note 12 ante.
3 For the meaning of 'tribunal' see para 354 note 3 ante.
4 For the meaning of 'appeal' see para 354 note 1 ante. As to council tax generally see para 227 et seq ante.
5 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 42(1) (reg 42 added by SI 1993/292); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 32(1). For these purposes, 'relevant billing authority' means:
   (1) in the case of an appeal against a completion notice, the billing authority in whose area is situated the dwelling which is the subject matter of the appeal (Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 42(2)(a) (as so added); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 32(2)(a)); and
   (2) in any other case, the billing authority whose decision is being appealed against (Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 42(2)(b) (as so added); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 32(2)(b)).

   For the meanings of 'appeal against a completion notice' and 'completion notice' see para 354 note 1 ante. For the meaning of 'area' in relation to a tribunal see para 147 note 8 ante. As to billing authorities see para 229 ante.
6 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 42(3) (as added (see note 5 supra); amended by SI 2005/3302); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 32(3).
7 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 42(4) (as added: see note 5 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 32(4).

362. Conduct of the hearing. A valuation tribunal's[1] function of hearing or determining an appeal in relation to the council tax[2] is to be discharged by three members[3] of the tribunal who must include at least one chairman[4]; and a chairman must preside[5]. However, where all parties to an appeal[6] who appear[7] so agree, the appeal may be decided by two members of a tribunal, and notwithstanding the absence of a chairman[8].

The hearing must take place in public, unless the tribunal otherwise orders on the application of a party and on being satisfied that the interests of that party would be prejudicially affected[9].

If the appellant fails to appear at the hearing, the tribunal may dismiss the appeal, and if any other party does not appear the tribunal may hear and determine the appeal in his absence[10].

The tribunal may require any witness to give evidence under oath or affirmation, and has power for that purpose to administer an oath or affirmation in due form[11]. Parties at the hearing may be heard in such order as the tribunal may determine, and may examine any witness before the tribunal and call witnesses[12].

A hearing may be adjourned for such time, to such place and on such terms (if any) as the tribunal thinks fit; and reasonable notice of the time and place to which the hearing has been adjourned must be given to every party[13].

If it thinks fit, a tribunal may, after notice to the parties inviting them to be present, inspect any dwelling which is the subject of an appeal[14].

Subject to any provisions of the council tax tribunal regulations[15], the tribunal: (1) must conduct the hearing in such manner as it considers most suitable to the clarification of the issues before it and generally to the just handling of the proceedings[16]; (2) must, so far as appears to it appropriate, seek to avoid formality in its proceedings[17]; and (3) is not bound by any enactment or rule of law relating to the admissibility of evidence before courts of law[18].

1 For the meaning of 'tribunal' see para 354 note 3 ante.
2 For the meaning of 'appeal' see para 354 note 1 ante. As to council tax generally see para 227 et seq ante.
3 As to membership of valuation tribunals see para 148 ante.
4 As to the chairman see para 148 ante.
5 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 44(1) (reg 44 added by SI 1993/292); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 34(1).

6 As to parties to an appeal see para 357 ante.

7 Any party to an appeal which is to be decided at a hearing may appear in person (with assistance from any person if that person wishes), by counsel or solicitor, or any other representative (other than a person, in relation to England, who is a member or an employee of the tribunal or, in relation to Wales, who is a member of a valuation tribunal or of the Governing Council of the Valuation Tribunal Service for Wales or an employee of the Valuation Tribunal Service for Wales): see the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 43 (added by SI 1993/292); and the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 33. As to valuation tribunals generally see para 147 et seq ante; and in relation to council tax see para 351 et seq ante. As to the Valuation Tribunal Service for Wales and its Governing Council see para 150 ante.

8 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 44(2) (as added: see note 5 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 34(2).

9 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 44(3) (as added: see note 5 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 34(3).

10 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 44(4) (as added: see note 5 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 34(4).

11 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 44(5) (as added: see note 5 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 34(5).

12 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 44(6) (as added: see note 5 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 34(6).

13 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 44(7) (as added: see note 5 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 34(7).

14 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 44(8) (as added: see note 5 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 34(8).

15 Ie subject to any provisions of, in relation to England, the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, Pt V (regs 34–52) (as added and amended) or, in relation to Wales, the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, Pt 5 (regs 24–42) (as the case may be) (see paras 354 et seq ante, 363 et seq post): see the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 44(9) (as added: see note 5 supra); and the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 34(9).

16 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 44(9)(a) (as added: see note 5 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 34(9)(a).

17 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 44(9)(b) (as added: see note 5 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 34(9)(b).

18 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 44(9)(c) (as added: see note 5 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 34(9)(c).

363. Admissible evidence. Where information is supplied in pursuance of regulations made under the Local Government Finance Act 1992 either in relation to persons paying reduced amounts of council tax[1] or pursuant to the administration provisions[2], that information is, in any relevant proceedings[3], admissible as evidence of any fact stated in it[4]; and any document purporting to contain such information is, unless the contrary is shown, presumed[5]:

(1) to have been supplied by the person by whom it purports to have been supplied[6]; and

(2) to have been supplied by that person in any capacity in which it purports to have been supplied[7].

Such information must not be used in any relevant proceedings by a billing authority[8] unless[9]:

(a) not less than two weeks' notice, specifying the information to be so used and the dwelling or person to which or to whom it relates, has previously been given to every other party to the proceedings[10]; and

(b) any person who has given not less than 24 hours' notice of his intention to do so has been permitted by that authority at any reasonable time[11]:

(i) to inspect the documents and other media in or on which such information is held[12]; and

(ii) to make a copy of, or of any extract from, any document containing such information[13].

If any information required to be made available for inspection in this way is not maintained in documentary form, the duty to make it so available is satisfied if a print-out, photographic image or other reproduction of the document, which has been obtained from the storage medium adopted in relation to the document, is made available for inspection[14].

1 Ie information supplied in pursuance of regulations under the Local Government Finance Act 1992 s 13 (as amended) (see para 257 ante): see the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 45(1) (as added: see note 2 infra); and the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 35(1). As to council tax generally see para 227 et seq ante.

2 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 45(1) (reg 45 added by SI 1993/292); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 35(1). The text refers to information supplied in pursuance of regulations under the Local Government Finance Act 1992 s 14(1), Sch 2 (as amended) (see para 310 ante): see the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 45(1) (as so added); and the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 35(1).

3 For these purposes, 'relevant proceedings' means any proceedings on or in consequence of an appeal, and any proceedings on or in consequence of a reference to arbitration under the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 52 (as added) or the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 42 (see para 369 post): Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 45(5) (as added: see note 2 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 35(5). For the meaning of 'appeal' see para 354 note 1 ante.

4 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 45(2) (as added: see note 2 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 35(2).

5 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 45(2) (as added: see note 2 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 35(2).

6 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 45(2)(a) (as added: see note 2 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 35(2)(a).

7 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 45(2)(b) (as added: see note 2 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 35(2)(b).

8 As to billing authorities see para 229 ante.

9 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 45(3) (as added: see note 2 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 35(3).

10 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 45(3)(a) (as added: see note 2 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 35(3)(a).

11 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 45(3)(b) (as added: see note 2 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 35(3)(b).

12 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 45(3)(b)(i) (as added: see note 2 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 35(3)(b)(i).

13 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 45(3)(b)(ii) (as added: see note 2 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 35(3)(b)(ii).

14 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 45(4) (as added: see note 2 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 35(4).

364. Evidence of lists and completion notices. The contents of a valuation list[1] may be proved by the production of a copy of it (or of the relevant part) purporting to be certified to be a true copy by the listing officer[2].

The contents of a completion notice[3] may be proved by the production of a copy of it purporting to be certified to be a true copy by the proper officer[4] of the billing authority[5].

1 For these purposes, 'list' means a valuation list compiled under the Local Government Finance Act 1992 s 22 (as amended) (see para 269 ante): see the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 34(1), (2)(b) (reg 34 added by SI 1993/292); and the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 3(1).

2 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 46(1) (reg 46 added by SI 1993/292); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 36(1). For the meaning of 'listing officer' see para 357 note 9 ante.

3 For the meaning of 'completion notice' see para 354 note 1 ante.

4 For these purposes, 'proper officer' has the same meaning as in the Local Government Act 1972 (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 336): see the Valuation and Community Charge Tribunals

Regulations 1989, SI 1989/439, reg 46(3) (as added: see note 2 supra); and the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 36(3).

5 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 46(2) (as added: see note 2 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 36(2). As to billing authorities see para 229 ante.

365. Decisions of the tribunal. An appeal in relation to the council tax[1] may be decided by a majority of the members[2] participating; and where[3] it falls to be disposed of by two members and they are unable to agree, it must be remitted by the clerk[4] to be decided by a tribunal[5] consisting of three different members[6].

Where an appeal is disposed of on the basis of a hearing, the decision of the tribunal may be reserved or given orally at the end of the hearing[7].

As soon as is reasonably practicable after a decision has been made, it must (in the case of a decision given orally) be confirmed[8] and, in any other case, be communicated[9], by notice in writing to the parties[10]; and the notice must be accompanied by a statement of the reasons for the decision[11].

In the case of an appeal against a completion notice[12], the clerk must send notice of the decision to the listing officer[13] appointed for the billing authority[14] which is a party to the appeal[15].

1 For the meaning of 'appeal' see para 354 note 1 ante. As to council tax generally see para 227 et seq ante.

2 As to membership of valuation tribunals see para 148 ante. For the purposes of the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 37, 'member' means a member of a tribunal constituted in accordance with reg 34 (see para 362 ante): reg 37(6).

3 Ie pursuant to the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 44(2) (as added) or the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 34(2), as the case may be (see para 362 ante): see the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 47(1) (as added: see note 6 infra); and the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 37(1).

4 For the meaning of 'clerk' see para 354 note 12 ante.

5 For the meaning of 'tribunal' see para 354 note 3 ante.

6 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 47(1) (reg 47 added by SI 1993/292); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 37(1).

7 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 47(2) (as added: see note 6 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 37(2).

8 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 47(3)(a) (as added: see note 6 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 37(3)(a).

9 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 47(3)(b) (as added: see note 6 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 37(3)(b).

10 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 47(3) (as added: see note 6 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 37(3). As to parties to an appeal see para 357 ante.

11 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 47(3) (as added: see note 6 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 37(3).

However, nothing in the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 47(3) (as added) or in the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 37(3), as the case may be, requires notice to be given to a party if it would be repetitive of any document supplied to him in accordance with the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 50 (as added) or the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 40, as the case may be (see para 368 post): Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 47(4) (as so added); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 37(4). The reference in the Queen's Printers' copy of the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 37(4) specifies any document supplied to him in accordance with reg 41 (see para 370 post) but it is submitted that the proper reference is to reg 40.

12 For the meanings of 'appeal against a completion notice' and 'completion notice' see para 354 note 1 ante.

13 For the meaning of 'listing officer' see para 357 note 9 ante.

14 As to billing authorities see para 229 ante.

15 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 47(5) (as added: see note 6 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 37(5). As to parties to an appeal see para 357 ante.

366. Orders. On or after deciding an appeal in relation to the council tax[1], the tribunal[2] may, in consequence of the decision, by order require[3]:

(1) an estimate to be quashed or altered[4];
(2) a penalty[5] to be quashed[6];
(3) the decision of a billing authority[7] to be reversed[8];
(4) a calculation (other than an estimate) of an amount to be quashed and the amount to be recalculated[9].

An order may require any matter ancillary to its subject matter to be attended to[10].

1 For the meaning of 'appeal' see para 354 note 1 ante. As to council tax generally see para 227 et seq ante.
2 For the meaning of 'tribunal' see para 354 note 3 ante.
3 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 48(1) (reg 48 added by SI 1993/292); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 38(1).
4 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 48(1)(a) (as added: see note 3 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 38(1)(a).
5 For the meaning of 'penalty' see para 354 note 2 ante.
6 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 48(1)(b) (as added: see note 3 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 38(1)(b).
7 As to billing authorities see para 229 ante.
8 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 48(1)(c) (as added: see note 3 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 38(1)(c).
9 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 48(1)(d) (as added: see note 3 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 38(1)(d).
10 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 48(2) (as added: see note 3 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 38(2).

367. Review of decisions. A valuation tribunal[1] has power[2] on written application by a party[3] to review or set aside by certificate under the hand of the presiding member[4]:

(1) any decision[5] on any of the following grounds[6], namely:
  (a) that the decision was wrongly made as a result of clerical error[7];
  (b) that a party did not appear and can show reasonable cause why he did not do so[8];
  (c) that the decision is affected by a decision of, or on appeal from, the High Court or the Lands Tribunal in relation to an appeal in respect of the dwelling which, or, as the case may be, the person who, was the subject of the tribunal's decision[9]; and
(2) a decision[10] on an appeal against a completion notice[11], on the additional ground[12] that new evidence, the existence of which could not have been ascertained by reasonably diligent inquiry or could not have been foreseen, has become available since the conclusion of the proceedings to which the decision relates[13].

Such an application to review or set aside may be dismissed if it is not made within the period of four weeks beginning on the day on which notice is given[14] of the decision in question[15].

If a tribunal sets aside a decision[16], it must revoke any order made in consequence of that decision and must order a rehearing or redetermination before either the same or a different tribunal[17]. The clerk[18] must as soon as reasonably practicable notify the parties to the appeal in writing of[19]:

(i) a determination that the tribunal will not undertake such a review[20];
(ii) the determination of the tribunal, having undertaken such a review, that it will not set aside the decision concerned[21];

(iii) the issue of any certificate either reviewing or setting aside a decision[22]; and
(iv) the revocation of any order[23].

Where, in relation to a decision in respect of which an application to review or set aside is made, an appeal to the High Court remains undetermined on the relevant day[24], the clerk must notify the High Court as soon as reasonably practicable after the occurrence of the relevant event[25].

1 For the meaning of 'tribunal' see para 354 note 3 ante. So far as is reasonably practicable, the tribunal appointed to review a decision is to consist of the same members as constituted the tribunal which took the decision: Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 49(4) (reg 49 added by SI 1993/292); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 39(4).
2 Ie subject to the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 49(2), (3) (as added) or the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 39(2), (3), as the case may be (see the text and notes 5, 14–15 infra): see the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 49(1) (as added: see note 1 supra); and the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 39(1).
3 As to parties to an appeal see para 357 ante.
4 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 49(1) (as added: see note 1 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 39(1). As to membership of valuation tribunals see para 148 ante. For the purposes of the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 39, 'member' means a member of a tribunal constituted in accordance with reg 34 (see para 362 ante): reg 39(11).
5 Ie except where an appeal against the decision in question has been determined by the High Court: Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 49(2) (as added: see note 1 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 39(2). As to appeals to the High Court see para 370 post.
6 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 49(1)(a) (as added: see note 1 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 39(1)(a).
7 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 49(5)(a) (as added: see note 1 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 39(5)(a).
8 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 49(5)(b) (as added: see note 1 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 39(5)(b).
9 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 49(5)(c) (as added: see note 1 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 39(5)(c).
10 See note 5 supra.
11 For the meanings of 'appeal against a completion notice' and 'completion notice' see para 354 note 1 ante.
12 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 49(1)(b) (as added: see note 1 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 39(1)(b).
13 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 49(6) (as added: see note 1 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 39(6).
14 Ie whether given in accordance with the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 47(3) (as added) (see para 365 ante) or reg 50(3) (as added) (see para 368 post) or the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 37(3) (see para 365 ante) or reg 40(3) (see para 368 post), as the case may be: see the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 49(3) (as added: see note 1 supra); and the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 39(3).
15 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 49(3) (as added: see note 1 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 39(3).
16 Ie in pursuance of either the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 49 (as added) or the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 39, as the case may be: see the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 49(7) (as added: see note 1 supra); and the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 39(7).
17 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 49(7) (as added: see note 1 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 39(7).
18 For the meaning of 'clerk' see para 354 note 12 ante.
19 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 49(8) (as added: see note 1 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 39(8).
20 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 49(8)(a) (as added: see note 1 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 39(8)(a).

21 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 49(8)(b) (as added: see note 1 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 39(8)(b).
22 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 49(8)(c) (as added: see note 1 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 39(8)(c).
23 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 49(8)(d) (as added: see note 1 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 39(8)(d).
24 For these purposes, 'relevant day' means the day on which, as the case may be:
(1) the application for review is made (Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 49(10)(a) (as added: see note 1 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 39(10)(a));
(2) the event referred to in heads (i)–(iv) in the text occurs (Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 49(10)(b) (as so added); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 39(10)(b)).
25 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 49(9) (as added: see note 1 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 39(9). For these purposes, 'relevant event', in relation to a relevant day, means the event occurring on that day: Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 49(10) (as so added); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 39(10).

368. Records of decisions etc. It is the duty of the clerk[1] to make arrangements for each decision, each order made by a valuation tribunal[2], and the effect of each certificate and revocation[3], to be recorded[4]. Records may be kept in any form, whether documentary or otherwise, and must contain the following particulars[5]:

(1) the appellant's name and address[6];
(2) the date of the appeal[7];
(3) the matter appealed against[8];
(4) the name of the billing authority[9] whose decision was appealed against[10];
(5) the date of the hearing or determination[11];
(6) the names of the parties[12] who appeared, if any[13];
(7) the decision of the tribunal and its date[14];
(8) the reasons for the decision[15];
(9) any order made in consequence of the decision[16];
(10) the date of any such order[17];
(11) any certificate setting aside the decision[18];
(12) any revocation[19].

A copy, in documentary form, of the relevant entry in the record must, as soon as reasonably practicable after the entry has been made, be sent to each party to the appeal to which the entry relates[20].

Each record must be retained for the period of six years beginning on the day on which an entry was last made in it[21].

Any person may, at a reasonable time stated by or on behalf of the tribunal concerned and without making payment, inspect the records which are so required to be made[22]. If without reasonable excuse a person having custody of the record intentionally obstructs a person in exercising the right of inspection so conferred, he is liable on summary conviction to a fine not exceeding level 1 on the standard scale[23].

The member[24] who presided at the hearing or determination of an appeal may authorise the correction of any clerical error in the record, and a copy of the corrected entry must be sent to the persons to whom a copy of the original entry was sent[25].

The production in any proceedings in any court of law of a document purporting to be certified by the clerk of a tribunal to be a true copy of a record or decision of that tribunal is, unless the contrary is proved, sufficient evidence of the document and of the facts it records[26].

1 For the meaning of 'clerk' see para 354 note 12 ante.
2 Ie under the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 48 (as added) or the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 38, as the case may be

(see para 366 ante): see the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 50(1) (as added: see note 4 infra); and the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 40(1). For the meaning of 'tribunal' see para 354 note 3 ante.

3 Ie under the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 49 (as added) or the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 39, as the case may be (see para 367 ante): see the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 50(1) (as added: see note 4 infra); and the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 40(1).

4 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 50(1) (reg 50 added by SI 1993/292); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 40(1).

5 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 50(2) (as added: see note 4 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 40(2).

6 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 50(2) (as added: see note 4 supra), Sch 4 (added by SI 1993/292); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 40(2), Sch 2.

7 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 50(2) (as added: see note 4 supra), Sch 4 (as added: see note 6 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 40(2), Sch 2. For the meaning of 'appeal' see para 354 note 1 ante.

8 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 50(2) (as added: see note 4 supra), Sch 4 (as added: see note 6 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 40(2), Sch 2.

9 As to billing authorities see para 229 ante.

10 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 50(2) (as added: see note 4 supra), Sch 4 (as added: see note 6 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 40(2), Sch 2.

11 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 50(2) (as added: see note 4 supra), Sch 4 (as added: see note 6 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 40(2), Sch 2.

12 As to parties to an appeal see para 357 ante.

13 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 50(2) (as added: see note 4 supra), Sch 4 (as added: see note 6 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 40(2), Sch 2.

14 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 50(2) (as added: see note 4 supra), Sch 4 (as added: see note 6 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 40(2), Sch 2.

15 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 50(2) (as added: see note 4 supra), Sch 4 (as added: see note 6 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 40(2), Sch 2.

16 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 50(2) (as added: see note 4 supra), Sch 4 (as added: see note 6 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 40(2), Sch 2.

17 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 50(2) (as added: see note 4 supra), Sch 4 (as added: see note 6 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 40(2), Sch 2.

18 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 50(2) (as added: see note 4 supra), Sch 4 (as added: see note 6 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 40(2), Sch 2.

19 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 50(2) (as added: see note 4 supra), Sch 4 (as added: see note 6 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 40(2), Sch 2. The text refers to any revocation under the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 49(7) (as added) or the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 39(7) as the case may be (see para 367 ante): see the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 50(2) (as so added), Sch 4 (as so added); and the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 40(2), Sch 2.

20 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 50(3) (as added: see note 4 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 40(3).

21 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 50(4) (as added: see note 4 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 40(4).

22 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 50(5) (as added: see note 4 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 40(5).

23 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 50(6) (as added: see note 4 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 40(6). As to the standard scale see para 70 note 11 ante.

24 As to membership of valuation tribunals see para 148 ante.
25 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 50(7) (as added: see note 4 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 40(7).
26 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 50(8) (as added: see note 4 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 40(8).

(iii) Arbitration

369. Reference to arbitration. Where at any time before the beginning of a hearing[1] or the consideration by a tribunal[2] of written representations[3] it is so agreed in writing between the persons who, if a dispute were to be the subject of an appeal[4] to the tribunal, would be the parties to the appeal[5], the question must be referred to arbitration[6].

1 As to hearings see para 360 et seq ante.
2 For the meaning of 'tribunal' see para 354 note 3 ante.
3 As to disposal by written representations see para 359 ante.
4 For the meaning of 'appeal' see para 354 note 1 ante.
5 As to parties to an appeal see para 357 ante.
6 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 52(1) (reg 52 added by SI 1993/292); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 42(1).

The Arbitration Act 1996 s 94 (application of the Arbitration Act 1996) (see ARBITRATION vol 2(3) (Reissue) para 8) has effect for the purposes of the referral of a question in pursuance of the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 52 (as added) or the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 42, as the case may be, as if such referral were to arbitration under another Act within the meaning of the Arbitration Act 1996 s 94: see the Interpretation Act 1978 s 17(2)(a); the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 52(2) (as so added); and the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 42(2). In any arbitration in pursuance of the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 52 (as added) or the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 42, as the case may be, the award may include any order which could have been made by a tribunal in relation to the question; and the Local Government Finance Act 1988 s 136, Sch 11 para 10A (as added) (see para 147 ante) applies to such an order as it applies to orders recorded in pursuance of the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, Pt V (regs 34–52) (as added and amended) or, in relation to Wales, the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, Pt 5 (regs 24–42), as the case may be (see paras 354 et seq ante, 370 post): Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 52(3) (as so added); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 42(3).

(iv) Appeal to the High Court

370. Appeals from the valuation tribunal. An appeal lies to the High Court on a question of law arising out of a decision or order which is given or made by a valuation tribunal[1] on an appeal[2] and may be made by any party to the appeal[3]. Such an appeal may be dismissed if it is not made within four weeks of the date on which notice is given of the decision or order that is the subject of the appeal[4].

The High Court may confirm, vary, set aside, revoke or remit the decision or order of the tribunal, and may make any order which the tribunal could have made[5].

1 For the meaning of 'tribunal' see para 354 note 3 ante.
2 For the meaning of 'appeal' see para 354 note 1 ante.
3 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 51(1) (reg 51 added by SI 1993/292); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 41(1). As to parties to an appeal see para 357 ante.
4 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 51(2) (as added: see note 3 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 41(2). However, where:
(1) in relation to an application for review of a decision (see para 367 ante) made within four weeks of the date on which notice was given of the decision which is the subject matter of the appeal, notice is given as mentioned in the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 49(8)(a) (as added) or the Valuation Tribunals (Wales)

Regulations 2005, SI 2005/3364, reg 39(8)(a), as the case may be (see para 367 ante) (Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 51(3)(a) (as so added); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 41(3)(a)); or

(2) notice is given as mentioned in the Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 49(8)(b) (as added) or the Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 39(8)(b), as the case may be (see para 367 ante) (Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 51(3)(b) (as so added); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 41(3)(b)),

the appeal may be dismissed if it is not made within four weeks of the service of the notice under the provisions mentioned in head (1) or head (2) supra, as the case may be (Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 51(3) (as so added); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 41(3)).

5 Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 51(4) (as added: see note 3 supra); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 41(4). Billing authorities must act in accordance with any order made by the High Court; and the Local Government Finance Act 1988 s 136, Sch 11 para 10A (as added) (see para 147 ante) has effect subject to this requirement: Valuation and Community Charge Tribunals Regulations 1989, SI 1989/439, reg 51(5) (as so added); Valuation Tribunals (Wales) Regulations 2005, SI 2005/3364, reg 41(5). As to billing authorities see para 229 ante.

(9) COUNCIL TAX BENEFIT

(i) Framework of Council Tax Benefit Scheme

371. Council tax benefit scheme. Amongst the schemes which are prescribed under the Social Security Contributions and Benefits Act 1992[1] to provide for 'income-related benefits', a scheme is prescribed for council tax benefit[2]; and each billing authority[3]: (1) must take such steps as appears to it appropriate for the purpose of securing that any person who may be entitled to council tax benefit in respect of council tax payable to the authority[4] becomes aware that he may be entitled to it[5]; and (2) must make copies of the council tax benefit scheme, with any modifications adopted by it under the Social Security Administration Act 1992[6] available for public inspection at its principal office at all reasonable hours without payment[7].

1 Ie under the Social Security Contributions and Benefits Act 1992 Pt VII (ss 123–137) (as amended) (income-related benefits): see SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) para 173 et seq.

'Prescribed' means specified in or determined in accordance with regulations: s 137(1). As to matters for which such regulations may make provision see s 137(2) (amended by the Jobseekers Act 1995 s 41(4), Sch 2 para 35). As to the exercise of the power to make regulations, orders and schemes under the Social Security Contributions and Benefits Act 1992 see s 175 (as amended); and SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) para 30. As to the scheme mentioned in the text see note 2 infra.

2 See ibid s 123(1)(e) (substituted by the Local Government Finance Act 1992 s 103, Sch 9 para 1). Special provision is made in relation to council tax benefit in the case of any person who has attained the qualifying age for state pension credit: see the Security Contributions and Benefits Act 1992 s 136A (as added); and para 372 post.

Accordingly, the scheme mentioned in the text has been set out in two sets of regulations: one relating to persons who have attained the qualifying age for state pension credit (see the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, SI 2006/216 (as amended); and para 375 post); and the other for those who have not (or who have attained that age but are on income support or an income-based jobseeker's allowance) (see the Council Tax Benefit Regulations 2006, SI 2006/215 (as amended); and para 375 post): see the Council Tax Benefit Regulations 2006, SI 2006/215, reg 5; and the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, SI 2006/216, reg 5. As to state pension credit see SOCIAL SECURITY AND PENSIONS. As to income support see SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) para 176 et seq. As to income-based jobseeker's allowance see SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) para 271 et seq.

Where a person, who has made a claim for asylum, is notified that he has been recorded by the Secretary of State as a refugee, the Council Tax Benefit Regulations 2006, SI 2006/215 (as amended) and the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, SI 2006/216 (as amended), as the case may be, have effect with respect to his

entitlement to council tax benefit for the relevant period which applies in his case: see the Council Tax Benefit Regulations 2006, SI 2006/215, reg 7A, Sch A1 (both added by SI 2006/217); and the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, SI 2006/216, reg 7A, Sch A1 (both added by SI 2006/217); and see para 375 post. As to the Secretary of State see para 228 ante. As to claims for asylum see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) para 238 et seq.

3 See the Social Security Contributions and Benefits Act 1992 s 123(4) (substituted by the Local Government Finance Act 1992 Sch 9 para 1; amended by the Welfare Reform Act 2007 s 40, Sch 5 para 1(1), (2)). For the meaning of 'billing authority' see para 229 ante; definition applied by virtue of the Social Security Contributions and Benefits Act 1992 s 137(1) (definition substituted by the Local Government Finance Act 1992 Sch 9 para 9(a)).

4 As to council tax generally see para 227 et seq ante; and as to liability to council tax see para 231 et seq ante.

5 Social Security Contributions and Benefits Act 1992 s 123(4)(a) (as substituted and amended: see note 3 supra).

6 See para 382 et seq post.

7 Social Security Contributions and Benefits Act 1992 s 123(4)(b) (as substituted and amended: see note 3 supra).

372. Effect of attaining qualifying age for state pension credit. In the case of any person who has attained the qualifying age for state pension credit[1], certain of the statutory provisions relating to council tax benefit may be modified[2].

Regulations under the Social Security Contributions and Benefits Act 1992 may make provision for the provisions as to exclusion from benefit[3] or as to the treatment of income and capital[4] not to have effect in relation to those benefits in the case of any such person[5].

In relation to council tax benefit, regulations may make provision for the determination of the income and capital of any such person; and any such regulations may include provision applying (with such modifications as the Secretary of State[6] thinks fit) the following statutory provisions[7], being those:

(1) in respect of state pension credit under which, where the claimant is a member of a couple, the income of the other member of the couple is treated as the income of the claimant[8]; and

(2) as to the determination of income and capital for purposes of state pension credit[9].

Such regulations may also include provision:

(a) authorising or requiring the use of any calculation or estimate of a person's income or capital made by the Secretary of State for the purposes of the State Pension Credit Act 2002[10]; or

(b) requiring that, if and so long as an assessed income period is in force[11] in respect of a person who has attained the qualifying age for state pension credit[12]: (i) the assessed amount[13] of any element of his retirement provision[14] is to be treated as the amount of that element for the purposes of council tax benefit[15]; and (ii) his income is to be taken for those purposes not to include any element of retirement provision which it is taken not to include for the purposes of state pension credit[16].

The Secretary of State also may by regulations make provision for the preceding provisions to apply with modifications in relation to polygamous marriages[17].

1 For these purposes, the 'qualifying age for state pension credit' is (in accordance with the State Pension Credit Act 2002 s 1(2)(b), (6): see SOCIAL SECURITY AND PENSIONS): (1) in the case of a woman, pensionable age; or (2) in the case of a man, the age which is pensionable age in the case of a woman born on the same day as the man: Social Security Contributions and Benefits Act 1992 s 137(1) (definition added by the State Pension Credit Act 2002 s 14, Sch 2 Pt 1 paras 1, 4). 'Pensionable age' has the meaning given by the rules in the Pensions Act 1995 s 126 (as amended), Sch 4 para 1 (as substituted) (see SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) para 562): Social Security Contributions and

Benefits Act 1992 s 137(1) (definition added by the State Pension Credit Act 2002 Sch 2 Pt 1 paras 1, 4). As to state pension credit see SOCIAL SECURITY AND PENSIONS.

2 See the Social Security Contributions and Benefits Act 1992 s 136A(1) (s 136A added by the State Pension Credit Act 2002 Sch 2 Pt 1 paras 1, 3). The Social Security Contributions and Benefits Act 1992 s 136A(1) (as added) is subject to s 136A(2), (3) (as added) (see the text and notes 3–9 infra) which may disapply, or apply with modification, the provisions specified therein: see s 136A(1) (as so added).

3 Ie ibid s 134(1) (see para 379 post): see s 136A(2) (as added: see note 2 supra).

4 Ie ibid s 136 (see para 381 post): see s 136A(2) (as added: see note 2 supra).

5 Ibid s 136A(2) (as added: see note 2 supra). As to regulations made under the Social Security Contributions and Benefits Act 1992 generally see para 371 note 1 ante. As to the regulations so made under s 136A (as added) see the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, SI 2006/216 (as amended); and paras 371 ante, 375 et seq post.

6 As to the Secretary of State see para 228 ante.

7 See the Social Security Contributions and Benefits Act 1992 s 136A(3) (as added: see note 2 supra).

8 See ibid s 136A(3)(a) (as added: see note 2 supra). Head (1) in the text refers to the provisions of the State Pension Credit Act 2002 s 5 (as amended) (see SOCIAL SECURITY AND PENSIONS): see the Social Security Contributions and Benefits Act 1992 s 136A(3)(a) (as so added).

9 See ibid s 136A(3)(b) (as added: see note 2 supra). Head (2) in the text refers to the provisions of the State Pension Credit Act 2002 s 15 (see SOCIAL SECURITY AND PENSIONS): see the Social Security Contributions and Benefits Act 1992 s 136A(3)(b) (as so added).

10 See ibid s 136A(4)(a) (as added: see note 2 supra).

11 Ie under the State Pension Credit Act 2002 s 6 (as amended) (duty to specify assessed income period) (see SOCIAL SECURITY AND PENSIONS): see the Social Security Contributions and Benefits Act 1992 s 136A(4)(b) (as added: see note 2 supra).

12 See ibid s 136A(4)(b) (as added: see note 2 supra).

13 For this purpose, 'assessed amount' has the same meaning as in the State Pension Credit Act 2002 (see SOCIAL SECURITY AND PENSIONS): Social Security Contributions and Benefits Act 1992 s 136A(5) (as added: see note 2 supra).

14 For this purpose, 'element' and 'retirement provision' have the same meanings as in the State Pension Credit Act 2002 (see SOCIAL SECURITY AND PENSIONS): Social Security Contributions and Benefits Act 1992 s 136A(5) (as added: see note 2 supra).

15 See ibid s 136A(4)(b)(i) (as added: see note 2 supra).

16 See ibid s 136A(4)(b)(ii) (as added: see note 2 supra). The text refers to any (or any further) elements of retirement provision which are not to be included in a person's income for the purposes of state pension credit by virtue of a determination under the State Pension Credit Act 2002 s 7(5) (see SOCIAL SECURITY AND PENSIONS): see the Social Security Contributions and Benefits Act 1992 s 136A(4)(b)(ii) (as so added).

17 See ibid s 136A(6) (as added: see note 2 supra). The text refers to cases to which the State Pension Credit Act 2002 s 12 (polygamous marriages) (see SOCIAL SECURITY AND PENSIONS) applies: see the Social Security Contributions and Benefits Act 1992 s 136A(6) (as so added). The provision that may be made by regulations under s 136A(6) (as added) includes any provision that may be made by regulations under s 133 (as amended) (polygamous marriages) (see para 378 post): s 136A(7) (as so added).

373. Arrangements for administering council tax benefit scheme. Council tax benefit provided for by virtue of a council tax benefit scheme[1] is to be administered by the appropriate authority[2]. A billing authority may modify[3] any part of the council tax benefit scheme administered by the authority[4]:

(1) so as to provide for disregarding, in determining a person's income, the whole or part of any prescribed[5] war disablement pension or prescribed war widow's pension[6] payable to that person or to his partner[7] or to a person to whom he is polygamously married[8];

(2) to such extent in other respects as may be prescribed[9],

and any such modifications may be adopted by resolution of an authority[10].

Modifications other than such modifications as are mentioned in head (1) above must be so framed as to secure that, in the estimate of the authority adopting them, the total of the amount of benefit which will be paid by it in any year will not exceed the permitted total or any subsidiary limit specified by order of the Secretary of State[11]. An authority which has adopted modifications may by resolution revoke or vary them[12]. If the council tax benefit scheme includes power for an authority to exercise a discretion in

allowing council tax benefit, the authority must not exercise that discretion so that the total of the amount of benefit paid by it in any year exceeds the permitted total or any subsidiary limit specified by order of the Secretary of State[13].

The Secretary of State:

(a) must by order specify the permitted total of council tax benefit payable by any authority in any year[14]; and

(b) may by order specify one or more subsidiary limits on the amount of council tax benefit payable by any authority in any year in respect of any matter or matters specified in the order[15].

The power to specify the permitted total or a subsidiary limit may be exercised by fixing an amount or by providing rules for its calculation[16].

1 Ie a scheme under the Social Security Contributions and Benefits Act 1992 s 123 (as amended) (see para 371 ante) (a 'council tax benefit scheme'): see the Social Security Administration Act 1992 s 139(1) (as amended: see note 2 infra).

2 Ibid s 139(1) (amended by the Local Government Finance Act 1992 s 103, Sch 9 para 20). For these purposes, the appropriate authority is the billing authority which levied the council tax as regards which a person is entitled to the benefit: Social Security Administration Act 1992 s 139(2) (substituted by the Local Government Finance Act 1992 Sch 9 para 20). For the meaning of 'billing authority' see para 229 ante; definition applied by virtue of the Social Security Administration Act 1992 s 191 (definition substituted by the Local Government Finance Act 1992 Sch 9 para 25(a)). Nothing in the Social Security Administration Act 1992 s 139 (as amended) is to be read as excluding the general provisions of the Local Government Act 1972 (see generally LOCAL GOVERNMENT) from applying in relation to the council tax benefit functions of a local authority: Social Security Administration Act 1992 s 139(4) (substituted by the Housing Act 1996 s 121, Sch 12 para 3(2)).

3 For these purposes, 'modifications' includes additions, omissions and amendments, and related expressions must be construed accordingly: see the Social Security Administration Act 1992 s 139(11).

4 Ibid s 139(6) (amended by the Local Government Finance Act 1992 Sch 9 para 20).

5 'Prescribe' means prescribe by regulations; and 'prescribed' must be construed accordingly: see the Social Security Administration Act 1992 s 191(1) (definition amended by the Welfare Reform Act 2007 s 40, Sch 5 paras 2, 10). See note 8 infra.

6 'War widow's pension' includes any corresponding pension payable to a widower or surviving civil partner: see the Social Security Administration Act 1992 s 139(11) (definition substituted by the Welfare Reform Act 2007 Sch 5 paras 2, 4(b)).

7 'Partner', in relation to a person, means the other member of the couple concerned: see the Social Security Administration Act 1992 s 139(11).

8 Ibid s 139(6)(a) (amended by the Welfare Reform Act 2007 Sch 5 paras 2, 4(a)). In exercise of the power so conferred the Secretary of State has made the Housing Benefit and Council Tax Benefit (War Pension Disregards) Regulations 2007, SI 2007/1619, regs 2–3, Schedule.

9 Social Security Administration Act 1992 s 139(6)(b). In exercise of the power so conferred the Secretary of State has made the Council Tax Benefit Regulations 2006, SI 2006/215 (as amended); and the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, SI 2006/216 (as amended) (see para 375 post).

10 Social Security Administration Act 1992 s 139(6).

11 Ibid s 139(7) (amended by the Housing Act 1996 Sch 12 para 3(3)). As to the Secretary of State see para 228 ante.

12 Social Security Administration Act 1992 s 139(8).

13 Ibid s 139(9) (amended by the Local Government Finance Act 1992 Sch 9 para 20; and the Housing Act 1996 Sch 12 para 3(4)).

14 Social Security Administration Act 1992 s 139(10)(a) (s 139(10) substituted by the Housing Act 1996 Sch 12 para 3(5)). Any power under the Social Security Administration Act 1992 Pt VIII (ss 134–140G) (as added and amended) to make provision by order for or in relation to a year does not require the making of a new order each year: see s 140F(1) (s 140F added by the Housing Act 1996 Sch 12 para 4). Any order made under the power may be revoked or varied at any time, whether before, during or after the year to which it relates: Social Security Administration Act 1992 s 140F(2) (as so added). For these purposes, 'year' means a financial year within the meaning of the Local Government Finance Act 1992 (see para 231 note 1 ante): see the Social Security Administration Act 1992 s 140G (s 140G added by the Housing Act 1996 Sch 12 para 4).

15 Social Security Administration Act 1992 s 139(10)(b) (as substituted: see note 14 supra).

16 Ibid s 139(10) (as substituted: see note 14 supra). In exercise of the power so conferred the Secretary of State has made the Council Tax Benefit (Permitted Totals) Order 1996, SI 1996/678 (amended by SI 2001/1130).

374. Secretary of State's consultation on benefit regulations. The Secretary of State[1]:

(1) before making regulations relating to housing benefit or council tax benefit[2] (other than regulations of which the effect is to increase any amount specified in regulations previously made)[3]; or

(2) before making regulations for making discretionary housing payments to persons who are entitled to housing benefit or council tax benefit (or persons who are entitled to both)[4]; or

(3) before making an order under any provision of Part VIII of the Social Security Administration Act 1992[5],

must consult with organisations appearing to him to be representative of the authorities concerned[6].

However, this requirement does not require the Secretary of State to undertake consultations if it appears to him that by reason of the urgency of the matter it is inexpedient to do so[7], or if the organisations have agreed that consultations should not be undertaken[8].

Where the Secretary of State has undertaken such consultations, he may make any regulations or order to which the consultations relate without completing the consultations if it appears to him that by reason of the urgency of the matter it is expedient to do so[9].

1 As to the Secretary of State see para 228 ante.
2 As to council tax benefit see para 371 et seq ante. As to housing benefit see HOUSING vol 22 (2006 Reissue) para 140 et seq.
3 Social Security Administration Act 1992 s 176(1)(a) (amended by the Local Government Finance Act 1992 s 103, Sch 9 para 23).
4 Social Security Administration Act 1992 s 176(1)(aa) (added by the Child Support, Pensions and Social Security Act 2000 s 69(6)). The text refers to regulations under the Child Support, Pensions and Social Security Act 2000 s 69 (see HOUSING vol 22 (2006 Reissue) para 185): see the Social Security Administration Act 1992 s 176(1)(aa) (as so added).
5 Ibid s 176(1)(b) (amended by the Housing Act 1996 s 123, Sch 13 para 3(1), (4)). The text refers to an order under any provision of the Social Security Administration Act 1992 Pt VIII (ss 134–140G) (as amended) (see paras 373 ante, 386 et seq post): see s 176(1)(b) (as so amended).
6 Ibid s 176(1).
7 Ibid s 176(2)(a).
8 Ibid s 176(2)(b).
9 Ibid s 176(3).

375. Council tax benefit regulations. Regulations are in force[1] which provide for the entitlement to, the amount of and the methods for the claiming and payment of council tax benefit[2], which is an income-related benefit scheme administered under the Social Security Contributions and Benefits Act 1992[3]. After setting out general provisions relating to the scheme[4], the regulations cover the following:

(1) the circumstances in which a child[5] or young person is or is not to be treated as a member of a family[6] and who is to be treated as being or not being a member of the same household as a claimant[7] for council tax benefit, and circumstances in which a person is to be treated as responsible or not responsible for a child or young person[8];

(2) provision for the calculation of a person's applicable amount in respect of his entitlement to council tax benefit by reference to which the amount of his benefit is calculated[9];

(3) calculation of the income and capital of a claimant for council tax benefit, the treatment of child care charges, the earnings of employed earners[10] and self-employed earners[11], the treatment of income other than earnings including notional income, and provision for the calculation of capital[12];

(4) provision for the treatment of students, in particular the limits on their entitlement to council tax benefit, and special provision with regards the calculation of their income[13];

(5) provision for the maximum amount of council tax benefit to which a person is entitled and any deductions to be made from that maximum, and provision for extended payments and cases in which the alternative maximum council tax benefit is to apply[14];

(6) the start of entitlement to council tax benefit and the end of benefit periods and changes of circumstances, including provision for exceptional cases in which the amount of benefit to which a person is entitled may be increased[15];

(7) provision for the making of claims and for a person's duty to notify changes of circumstances affecting entitlement to benefit[16];

(8) provision for decisions on questions arising on claims and the review of such decisions[17];

(9) provision for the awards or payments of council tax benefit, including to whom payments are to be made, and provision for the suspension of benefit in some instances[18];

(10) provision for the recovery of excess benefit, when recovery is possible and the methods of recovery[19]; and

(11) provision for the exchange of information between the Secretary of State[20] and between authorities in connection with their respective functions in connection with social security benefits and council tax benefit[21].

1 See the Council Tax Benefit Regulations 2006, SI 2006/215 (amended by SI 2005/2465; SI 2005/2502; SI 2005/2904; SI 2005/3238; SI 2005/3360; SI 2006/217; SI 2006/588; SI 2006/718; SI 2006/1026; SI 2006/1752; SI 2006/1981; SI 2006/2378; SI 2006/2528; SI 2006/2813; SI 2006/2967; SI 2006/2968; SI 2006/3341; SI 2007/688; SI 2007/719; SI 2007/1331; SI 2007/1619; SI 2007/1632; SI 2007/1749; SI 2007/2470; SI 2007/2538; SI 2007/2618; SI 2007/2911); and the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, SI 2006/216 (amended by SI 2005/2465; SI 2005/2502; SI 2005/2904; SI 2005/3360; SI 2006/217; SI 2006/588; SI 2006/718; SI 2006/1026; SI 2006/1981; SI 2006/2378; SI 2006/2528; SI 2006/2813; SI 2006/2967; SI 2006/2968; SI 2006/3341; SI 2007/688; SI 2007/719; SI 2007/1331; SI 2007/1619; SI 2007/1749; SI 2007/2470; SI 2007/2538; SI 2007/2618; SI 2007/2911).

2 For these purposes, 'council tax benefit' means council tax benefit under the Social Security Contributions and Benefits Act 1992 Pt VII (ss 123–137) (as amended) (income-related benefits) (see paras 371 et seq ante, 376 et seq post): Council Tax Benefit Regulations 2006, SI 2006/215, reg 2(1); Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, SI 2006/216, reg 2(1).

3 Amongst the schemes which are prescribed under the Social Security Contributions and Benefits Act 1992 Pt VII (as amended) to provide for what are referred to in the legislation as 'income-related benefits', a scheme is prescribed for council tax benefit: see SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) para 173 et seq. As to the council tax benefit scheme see para 371 et seq ante.

4 See the Council Tax Benefit Regulations 2006, SI 2006/215, Pt I (regs 1–8) (amended by SI 2006/217; SI 2006/1026; SI 2006/2528; SI 2006/2968; SI 2006/3341; SI 2007/1619; SI 2007/1749; SI 2007/2538; SI 2007/2618); and the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, SI 2006/216, Pt I (regs 1–8) (amended by SI 2006/217; SI 2006/1026; SI 2006/2528; SI 2006/2968; SI 2006/3341; SI 2007/1619; SI 2007/1749; SI 2007/2538; SI 2007/2618).

As to the entitlement of a refugee to council tax benefit see the Council Tax Benefit Regulations 2006, SI 2006/215, reg 7A, Sch A1 (both added by SI 2006/217); and the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, SI 2006/216, reg 7A, Sch A1 (both added by SI 2006/217); and see para 371 note 2 ante. Other miscellaneous provisions provide for:

(1) the Social Security Administration Act 1992 s 1(1A) (as added) (requirement to state national insurance number) (see SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) para 337) not to apply in the case of a child or young person in respect of whom council tax benefit is claimed (see the Council Tax Benefit Regulations 2006, SI 2006/215, reg 4; and the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, SI 2006/216, reg 4);

(2) the definition of non-dependent (see the Council Tax Benefit Regulations 2006, SI 2006/215, reg 3; and the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, SI 2006/216, reg 3);

(3) the categories of person to whom the regulations apply (see the Council Tax Benefit Regulations 2006, SI 2006/215, reg 5; and the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, SI 2006/216, reg 5; and see para 371 note 2 ante);

(4) the circumstances in which a person is to be treated for the purposes of the regulations as engaged in remunerative work (see the Council Tax Benefit Regulations 2006, SI 2006/215, reg 6; and the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, SI 2006/216, reg 6);

(5) classes of prescribed person for the purposes of the Social Security Administration Act 1992 s 131(3)(b) (as substituted) (see para 376 post) (see the Council Tax Benefit Regulations 2006, SI 2006/215, regs 7, 8 (reg 7 amended by SI 2006/1026; SI 2006/2528; SI 2006/3341); and the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, SI 2006/216, regs 7, 8 (reg 7 amended by SI 2006/1026; SI 2006/2528; SI 2006/3341); and see para 376 post).

5 For these purposes, 'child' means a person under the age of 16: Council Tax Benefit Regulations 2006, SI 2006/215, reg 2(1); Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, SI 2006/216, reg 2(1).

6 For the meaning of 'family' see para 379 note 5 post; definition applied by the Council Tax Benefit Regulations 2006, SI 2006/215, reg 2(1); and the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, SI 2006/216, reg 2(1).

7 For these purposes, 'claimant' means a person claiming council tax benefit: Council Tax Benefit Regulations 2006, SI 2006/215, reg 2(1); Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, SI 2006/216, reg 2(1).

8 See the Council Tax Benefit Regulations 2006, SI 2006/215, Pt 2 (regs 9–11) (reg 9 amended by SI 2006/718); and the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, SI 2006/216, Pt 2 (regs 9–11) (reg 9 amended by SI 2006/718); and see para 379 post.

9 See the Council Tax Benefit Regulations 2006, SI 2006/215, regs 12–13, Sch 1 (Sch 1 amended by SI 2005/2502; SI 2006/217; SI 2006/2378; SI 2007/688; SI 2007/719; SI 2007/2618); and the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, SI 2006/216, reg 12 (amended by SI 2005/2502; SI 2005/3360; SI 2006/217), Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, SI 2006/216, Sch 1 (amended by SI 2007/688; SI 2007/719); and see para 380 post.

Provision is made with respect to polygamous marriages: see the Council Tax Benefit Regulations 2006, SI 2006/215, reg 13; and the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, SI 2006/216, reg 13; and see para 378 post. For these purposes, 'polygamous marriage' means a marriage to which the Social Security Contributions and Benefits Act 1992 s 133(1) (see para 378 post) applies: Council Tax Benefit Regulations 2006, SI 2006/215, reg 2(1); Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, SI 2006/216, reg 2(1).

10 For these purposes, 'employed earner' is to be construed in accordance with the Social Security Contributions and Benefits Act 1992 s 2(1)(a) (as amended) (see SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) para 32): Council Tax Benefit Regulations 2006, SI 2006/215, reg 2(1); Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, SI 2006/216, reg 2(1).

11 For these purposes, 'self-employed earner' is to be construed in accordance with the Social Security Contributions and Benefits Act 1992 s 2(1)(b) (see SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) para 32): Council Tax Benefit Regulations 2006, SI 2006/215, reg 2(1); Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, SI 2006/216, reg 2(1).

12 See the Council Tax Benefit Regulations 2006, SI 2006/215, Pt 4 (regs 15–42, Schs 3–5) (Pt 4 amended by SI 2005/2465; SI 2005/2502; SI 2005/3360; SI 2006/217; SI 2006/588; SI 2006/2378; SI 2006/2813; SI 2007/719; SI 2007/688; SI 2007/1619; SI 2007/1749; SI 2007/2618), the Council Tax Benefit Regulations 2006, SI 2006/215, Pt 5 (regs 43–56) (Pt 5 amended by SI 2005/3238; SI 2006/217; SI 2006/718; SI 2006/1752; SI 2006/2378; SI 2007/1632); and the Council Tax Benefit

(Persons who have attained the qualifying age for state pension credit) Regulations 2006, SI 2006/216, Pt 4 (regs 13–39, Schs 2–4) (Pt 4 amended by SI 2006/588; SI 2006/2378; SI 2006/2813; SI 2007/688; SI 2007/1619; SI 2007/1749; SI 2007/2618); and see para 381 post.

13 See the Council Tax Benefit Regulations 2006, SI 2006/215, Pt 5 (regs 43–56) (Pt 5 amended by SI 2005/3238; SI 2006/217; SI 2006/718; SI 2006/1752; SI 2006/2378; SI 2007/1632); and see para 381 post.

14 See the Council Tax Benefit Regulations 2006, SI 2006/215, Pt 6 (regs 57–63, Schs 2, 6, 7) (Pt 6 amended by SI 2005/2502; SI 2006/217; SI 2007/688); and the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, SI 2006/216, Pt 5 (regs 40–47, Schs 5, 6) (Pt 5 amended by SI 2005/2502; SI 2006/217; SI 2007/688); and see para 376 post.

15 See the Council Tax Benefit Regulations 2006, SI 2006/215, Pt 7 (regs 64–67) (reg 67 amended by SI 2007/2470); and the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, SI 2006/216, Pt 6 (regs 48–51) (reg 50 amended by SI 2006/2378; SI 2007/2470); and see para 376 post.

16 See the Council Tax Benefit Regulations 2006, SI 2006/215, Pt 8 (regs 68–74A) (Pt 8 amended by SI 2006/2967; SI 2006/2968; SI 2007/719; SI 2007/1331; SI 2007/1749; SI 2007/2618; SI 2007/2911); the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, SI 2006/216, Pt 7 (regs 52–59A) (Pt 7 amended by SI 2005/2502; SI 2006/217; SI 2006/2967; SI 2006/2968; SI 2007/719; SI 2007/1331; SI 2007/1749; SI 2007/2618; SI 2007/2911); and see para 382 post.

17 See the Council Tax Benefit Regulations 2006, SI 2006/215, Pt 9 (regs 75–76); the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, SI 2006/216, Pt 9 (regs 60–61); and see paras 382, 383 post.

18 See the Council Tax Benefit Regulations 2006, SI 2006/215, Pt 10 (regs 77–81); the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, SI 2006/216, Pt 9 (regs 62–66); and see paras 382, 386, 388 post.

19 See the Council Tax Benefit Regulations 2006, SI 2006/215, Pt 11 (regs 82–90) (Pt 11 amended by SI 2005/2904; SI 2006/217); and the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, SI 2006/216, Pt 10 (regs 67–75) (Pt 10 amended by SI 2005/2904; SI 2006/217); and see para 387 post.

20 As to the Secretary of State see para 228 ante.

21 See the Council Tax Benefit Regulations 2006, SI 2006/215, Pt 12 (regs 91–97) (amended by SI 2007/2911); the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, SI 2006/216, Pt 11 (regs 76–82) (amended by SI 2007/2911); and see paras 382, 393, 395 post.

(ii) Entitlement to Council Tax Benefit

376. Persons entitled to council tax benefit generally. A person is entitled to council tax benefit[1] in respect of a particular day falling after 31 March 1993 if the following are fulfilled, namely[2]:

(1) the condition (the 'main condition' for these purposes) that the person concerned[3]:
   (a) is for the day liable to pay council tax in respect of a dwelling[4] of which he is a resident[5]; and
   (b) is not a prescribed[6] person or a person of a prescribed class[7];

and either[8]:

(2) each of the following two conditions[9], namely:
   (a) the condition (the 'first condition' for these purposes) that there is an appropriate maximum council tax benefit in the case of the person concerned[10]; and
   (b) the condition (the 'second condition' for these purposes) that[11]: (i) the day falls within a week[12] in respect of which the person concerned has no income[13]; (ii) the day falls within a week in respect of which his income does not exceed the applicable amount[14]; or (iii) neither head (2)(b)(i) nor head (2)(b)(ii) above is fulfilled in his case but amount A exceeds amount B, where amount A is the appropriate maximum council tax benefit in his

case[15] and amount B is a prescribed percentage of the difference between his income in respect of the week in which the day falls and the applicable amount[16];

or:

(3) the condition that[17]:

(a) no other resident of the dwelling is liable to pay rent to the person concerned in respect of the dwelling[18]; and

(b) there is an alternative maximum council tax benefit in the case of that person which is derived from the income or aggregate incomes of one or more residents to whom this provision applies[19].

Where a person is entitled to council tax benefit in respect of a day[20], the amount to which he is entitled is:

(A) if head (2)(b)(i) or head (2)(b)(ii) above applies, the amount which is the appropriate maximum council tax benefit in his case[21];

(B) if head (2)(b)(iii) above applies, the amount found by deducting amount B from amount A[22]; and

(C) if head (3) above applies, the amount which is the alternative maximum council tax benefit in his case[23].

However, where a person is entitled to council tax benefit in respect of a day, and heads (2) and (3) above both apply, the amount to which he is entitled is whichever is the greater of the amount given by head (A) or, as the case may be, head (B) above[24] and the amount given by head (C) above[25].

Regulations under the Social Security Contributions and Benefits Act 1992 must prescribe the manner in which the appropriate maximum council tax benefit and the alternative maximum council tax benefit are to be determined in any case[26].

1 Council tax benefit:

(1) is not allowed to a person in respect of any day falling before the day on which his entitlement is to be regarded as commencing for that purpose by virtue of the Social Security Administration Act 1992 s 6(1)(l) (see para 382 post) (Social Security Contributions and Benefits Act 1992 s 131(2)(a) (s 131 substituted by the Local Government Finance Act 1992 s 103, Sch 9 para 4)); but

(2) may be allowed to him in respect of not more than six days immediately following the day on which his period of entitlement would otherwise come to an end, if his entitlement is to be regarded by virtue of the Social Security Administration Act 1992 s 6(1)(l) as not having ended for that purpose (Social Security Contributions and Benefits Act 1992 s 131(2)(b) (as so substituted)).

2 See ibid s 131(1) (as substituted: see note 1 supra).

3 See ibid s 131(1), (3) (as substituted: see note 1 supra).

4 For the meaning of 'dwelling' see para 232 ante; definition applied by virtue of ibid s 131(11) (as substituted: see note 1 supra).

5 Ibid s 131(3)(a) (as substituted: see note 1 supra). For the meaning of 'resident' see para 237 note 4 ante; definition applied by virtue of s 131(11) (as so substituted).

6 'Prescribed' means specified in or determined in accordance with regulations: ibid s 137(1). As to regulations so made generally see para 371 note 1 ante. As to the regulations made for the purposes of s 131(3)(b) (as substituted) see the Council Tax Benefit Regulations 2006, SI 2006/215, regs 7, 8 (reg 7 amended by SI 2006/1026; SI 2006/2528; SI 2006/3341); and the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, SI 2006/216, regs 7, 8 (reg 7 amended by SI 2006/1026; SI 2006/2528; SI 2006/3341); and see para 375 ante.

7 Social Security Contributions and Benefits Act 1992 s 131(3)(b) (as substituted: see note 1 supra).

8 See ibid s 131(1) (as substituted: see note 1 supra).

9 See ibid s 131(1)(a) (as substituted: see note 1 supra).

10 Ibid s 131(4) (as substituted: see note 1 supra). As to provision made in regulations for council tax benefit see para 375 ante.

11 See ibid s 131(5) (as substituted: see note 1 supra).

12 For these purposes, 'week', in relation to council tax benefit, means a period of seven days beginning with a Monday: ibid s 137(1) (amended by the Local Government Finance Act 1992 Sch 9 para 9(d)).

13 Social Security Contributions and Benefits Act 1992 s 131(5)(a) (as substituted: see note 1 supra).

14 Ibid s 131(5)(b) (as substituted: see note 1 supra). As to the applicable amount see para 380 post.

15 Ibid s 131(5)(c)(i) (as substituted: see note 1 supra).

16 Ibid s 131(5)(c)(ii) (as substituted: see note 1 supra). As to the regulations made for the purposes of s 131(5)(c)(ii) (as substituted) (council tax benefit taper) see the Council Tax Benefit Regulations 2006, SI 2006/215, reg 59; and the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, SI 2006/216, reg 43; and see para 375 ante.

17 See the Social Security Contributions and Benefits Act 1992 s 131(1)(b), (6) (as substituted: see note 1 supra).

18 Ibid s 131(6)(a) (as substituted: see note 1 supra).

19 Ibid s 131(6)(b) (as substituted: see note 1 supra). Section 131(6) (as substituted) applies to any other resident of the dwelling who:

(1) is not a person who, in accordance with the Local Government Finance Act 1992 s 11(5), Sch 1 (as amended) (see paras 248–256 ante) falls to be disregarded for the purposes of discount (Social Security Contributions and Benefits Act 1992 s 131(7)(a) (as so substituted)); and

(2) is not a prescribed person or a person of a prescribed class (s 131(7)(b) (as so substituted)).

Accordingly, s 131(6) (as substituted) does not apply in respect of any person referred to in the Council Tax Benefit Regulations 2006, SI 2006/215, reg 63; and the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, SI 2006/216, reg 47; and see para 375 ante.

20 As to the period of entitlement and prescribed circumstances that may affect entitlement see the Council Tax Benefit Regulations 2006, SI 2006/215, Pt 7 (regs 64–67) (reg 67 amended by SI 2007/2470); and the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, SI 2006/216, Pt 6 (regs 48–51) (reg 50 amended by SI 2006/2378; SI 2007/2470); and see para 375 ante.

21 See the Social Security Contributions and Benefits Act 1992 s 131(8)(a) (as substituted: see note 1 supra).

22 See ibid s 131(8)(b) (as substituted: see note 1 supra). For these purposes, 'amount A' and 'amount B' have the meanings given by s 131(5)(c) (as substituted) (see head (2)(b)(iii) in the text): see s 131(8)(b) (as so substituted).

23 See ibid s 131(8)(c) (as substituted: see note 1 supra).

24 See ibid s 131(9)(a) (as substituted: see note 1 supra).

25 See ibid s 131(9)(b) (as substituted: see note 1 supra).

26 Ibid s 131(10) (as substituted: see note 1 supra). As to the regulations made for the purposes of s 131(10) (as substituted) see the Council Tax Benefit Regulations 2006, SI 2006/215, Pt 6 (regs 57–63, Schs 2, 6, 7) (Pt 6 amended by SI 2005/2502; SI 2006/217; SI 2007/688); and the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, SI 2006/216, Pt 5 (regs 40–47, Schs 5, 6) (Pt 5 amended by SI 2005/2502; SI 2006/217; SI 2007/688); and see para 375 ante.

As from a day to be appointed under the Welfare Reform Act 2007 s 70(2), new provision is made for making extended payments (currently set out in regulations made under powers e g in the Social Security Contributions and Benefits Act 1992 s 131(10) (as substituted)) and removing the need for those who receive extended payments to submit a new claim for any in-work council tax benefit so that any move to employment (and entitlement to an extended payment) is to be treated as if it were a change of circumstances in a continuing award: see the Welfare Reform Act 2007 ss 32–34 (not yet in force). At the date at which this volume states the law, no such day had been appointed.

377. Couples. As regards any case where a person is a member of a couple[1] throughout a particular day, regulations may make such provision as the Secretary of State[2] sees fit as to[3]:

(1) the entitlement of the person to council tax benefit in respect of the day[4]; and

(2) the amount to which he is entitled[5].

The regulations may provide that:

(a) prescribed provisions are to apply instead of prescribed provisions of Part VII of the Social Security Contributions and Benefits Act 1992[6], or that prescribed provisions of Part VII are not to apply or are to apply subject to prescribed amendments or adaptations[7]; and

(b) for the purpose of calculating income, capital, the applicable amount, the appropriate maximum council tax benefit and the alternative maximum council

tax benefit[8] in the case of the person concerned, prescribed amounts relating to the person and his partner[9] are to be aggregated and the aggregate is to be apportioned[10].

The regulations may contain different provision as to the following different cases:

(i) cases where the main condition[11] is fulfilled on the day concerned by the person concerned but not by his partner[12];

(ii) cases where the main condition is fulfilled on the day concerned by the person concerned and by his partner[13].

The regulations may include such supplementary, incidental or consequential provisions as appear to the Secretary of State to be necessary or expedient[14].

1 For these purposes, 'couple' means: (1) a man and woman who are married to each other and are members of the same household; (2) a man and woman who are not married to each other but are living together as husband and wife otherwise than in prescribed circumstances; (3) two people of the same sex who are civil partners of each other and are members of the same household; or (4) two people of the same sex who are not civil partners of each other but are living together as if they were civil partners otherwise than in prescribed circumstances: Social Security Contributions and Benefits Act 1992 s 137(1) (definition added by the Civil Partnership Act 2004 s 254(1), Sch 24 Pt 3 para 46(1), (3)). For the purposes of the Social Security Contributions and Benefits Act 1992 Pt VII (ss 123–137) (as amended), two people of the same sex are to be regarded as living together as if they were civil partners if, but only if, they would be regarded as living together as husband and wife were they instead two people of the opposite sex: s 137(1A) (added by the Civil Partnership Act 2004 Sch 24 Pt 3 para 46(1), (5)). As to polygamous marriages see para 378 post.

'Prescribed' means specified in or determined in accordance with regulations: Social Security Contributions and Benefits Act 1992 s 137(1). As to regulations so made generally see para 371 note 1 ante. Accordingly, see also the definition of 'couple' in the Council Tax Benefit Regulations 2006, SI 2006/215, reg 2(1); and the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, SI 2006/216, reg 2(1); and see para 375 ante.

2 As to the Secretary of State see para 228 ante.

3 Social Security Contributions and Benefits Act 1992 s 132(1) (amended by the Civil Partnership Act 2004 Sch 24 Pt 3 para 45).

Nothing in the Social Security Contributions and Benefits Act 1992 s 132(3)–(8) (as amended) (see the text and notes 6–14 infra) prejudices the generality of s 132(1) (as amended): s 132(2).

4 Ibid s 132(1)(a) (amended by the Local Government Finance Act 1992 s 103, Sch 9 para 5(1)). See note 3 supra. As to entitlement to council tax benefit see para 376 ante.

5 Social Security Contributions and Benefits Act 1992 s 132(1)(b). See note 3 supra. As to provision made for the amount of council tax benefit see para 376 ante.

6 Ie ibid Pt VII (as amended): see s 132(3). See also SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) para 176 et seq.

7 Ibid s 132(3).

8 Ibid s 132(5) (amended by the Local Government Finance Act 1992 Sch 9 para 5(2)). As to the applicable amount see para 380 post.

9 For these purposes, references to a person's partner are to the other member of the couple concerned: Social Security Contributions and Benefits Act 1992 s 132(9)(a).

The regulations may amend:

(1) the Social Security Administration Act 1992 s 139(6) (as amended) (see para 373 ante) so as to allow for disregarding the whole or part of any pension payable to the partner of the person concerned in determining the latter's income (Social Security Contributions and Benefits Act 1992 s 132(6)(a));

(2) the Social Security Administration Act 1992 s 139(7) (as amended) (see para 373 ante) accordingly (Social Security Contributions and Benefits Act 1992 s 132(6)(b)).

10 Ibid s 132(4). As to income and capital see para 381 post.

11 References to the main condition are references to the condition mentioned in ibid s 131(3) (as substituted) (see para 376 ante): s 132(9)(b) (substituted by the Local Government Finance Act 1992 Sch 9 para 5(4)).

12 Social Security Contributions and Benefits Act 1992 s 132(7)(a) (s 132(7)(a), (b) amended by the Local Government Finance Act 1992 Sch 9 para 5(3)).

13 Social Security Contributions and Benefits Act 1992 s 132(7)(b) (as amended: see note 12 supra).

14 Social Security Contributions and Benefits Act 1992 s 132(8).

378. Polygamous marriages. In any case where:

(1) throughout a particular day a person (the person in question) is a husband or wife by virtue of a marriage entered into under a law which permits polygamy[1]; and

(2) either party to the marriage has for the time being any spouse additional to the other party[2],

regulations[3] may make such provision as the Secretary of State[4] sees fit as to the entitlement of the person in question to council tax benefit in respect of the day[5], and the amount to which he is entitled[6].

1 Social Security Contributions and Benefits Act 1992 s 133(1)(a). As to the provision made for s 133 (as amended) to be applied with modifications in cases where a claimant has attained the qualifying age for state pension credit see para 372 ante.

2 Ibid s 133(1)(b). For the purposes of s 132 (as amended) (see para 377 ante) neither party to the marriage is to be taken to be a member of a couple on the day: s 133(2).

3 As to regulations made under the Social Security Contributions and Benefits Act 1992 generally see para 371 note 1 ante. As to the regulations made in relation to polygamous marriages see the Council Tax Benefit Regulations 2006, SI 2006/215, reg 13; and the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, SI 2006/216, reg 13; and see para 375 ante.

4 As to the Secretary of State see para 228 ante.

5 Social Security Contributions and Benefits Act 1992 s 133(3)(a) (amended by the Local Government Finance Act 1992 s 103, Sch 9 para 6). See note 3 supra. As to entitlement to council tax benefit see para 376 ante.

6 Social Security Contributions and Benefits Act 1992 s 133(3)(b). See note 3 supra. As to provision made for the amount of council tax benefit see para 376 ante.

Without prejudice to the generality of s 133(3) (as amended), the regulations may include provision equivalent to that included under the Social Security Contributions and Benefits Act 1992 s 132 (as amended) (see para 377 ante) subject to any modifications the Secretary of State sees fit: s 133(4).

379. Exclusions from benefit. No person is entitled to council tax benefit[1] if his capital[2] or a prescribed[3] part of it exceeds the prescribed amount[4].

Except in prescribed circumstances, the entitlement of one member of a family[5] to council tax benefit excludes entitlement to that benefit for any other member for the same period[6]. Where the amount of council tax benefit would be less than a prescribed amount, it is not payable except in prescribed circumstances[7].

1 As to entitlement to council tax benefit see para 376 ante.

2 As to capital see para 381 post.

3 'Prescribed' means specified in or determined in accordance with regulations: Social Security Contributions and Benefits Act 1992 s 137(1). As to regulations so made generally see para 371 note 1 ante. As to the provision made for income and capital see para 381 post.

4 Social Security Contributions and Benefits Act 1992 s 134(1). See note 3 supra. As to the provision made for s 134(1) to be disapplied in cases where a claimant has attained the qualifying age for state pension credit see para 372 ante.

5 For these purposes, 'family' means: (1) a couple; or (2) a couple and a member of the same household for whom one of them is or both are responsible and who is a child or a person of a prescribed description; or (3) except in prescribed circumstances, a person who is not a member of a couple and a member of the same household for whom that person is responsible and who is a child or a person of a prescribed description: ibid s 137(1) (definition amended by the Civil Partnership Act 2004 s 254(1), Sch 24 Pt 3 para 46(1), (2)). 'Child' means a person under the age of 16: s 137(1). For the meaning of 'couple' see para 377 note 1 ante. As to the regulations made for the purposes of the definition of 'family' in s 137(1) (as added) see the Council Tax Benefit Regulations 2006, SI 2006/215, Pt 2 (regs 9–11) (reg 9 amended by SI 2006/718); and the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, SI 2006/216, Pt 2 (regs 9–11) (reg 9 amended by SI 2006/718); and see para 375 ante.

6 Social Security Contributions and Benefits Act 1992 s 134(2).

7 Ibid s 134(4). As to provision made for the amount of council tax benefit see para 376 ante. As to income-related benefits see generally SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) para 173 et seq.

380. The applicable amount in respect of entitlement to council tax benefit. The applicable amount, in relation to council tax benefit[1], is such amount or the aggregate of such amounts as may be prescribed[2] in relation to that benefit[3]. The power to prescribe applicable amounts so conferred includes power to prescribe nil as an applicable amount[4].

The applicable amount for a severely disabled person must include an amount in respect of his being a severely disabled person[5]. Regulations may specify circumstances in which persons are to be treated as being or as not being severely disabled[6].

1 As to entitlement to council tax benefit see para 376 ante.
2 'Prescribed' means specified in or determined in accordance with regulations: Social Security Contributions and Benefits Act 1992 s 137(1). As to regulations so made generally see para 371 note 1 ante. As to the regulations made in relation to the applicable amounts see the Council Tax Benefit Regulations 2006, SI 2006/215, regs 12–13, Sch 1 (Sch 1 amended by SI 2005/2502; SI 2006/217; SI 2006/2378; SI 2007/688; SI 2007/719; SI 2007/2618); and the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, SI 2006/216, reg 12 (amended by SI 2005/2502; SI 2005/3360; SI 2006/217), Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, SI 2006/216, Sch 1 (amended by SI 2007/688; SI 2007/719); and see para 375 ante.
3 Social Security Contributions and Benefits Act 1992 s 135(1). See SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) paras 174, 183.
4 Ibid s 135(2).
5 Ibid s 135(5) (amended by the Tax Credits Act 2002 s 60, Sch 6).
6 Social Security Contributions and Benefits Act 1992 s 135(6).

381. Income and capital. Where a person claiming council tax benefit is a member of a family[1], the income and capital of any member of that family is, except in prescribed[2] circumstances, to be treated as the income and capital of that person[3]. Regulations[4] may provide that capital not exceeding the prescribed amount[5] but exceeding a prescribed lower amount must be treated, to a prescribed extent, as if it were income of a prescribed amount[6]. Income and capital must be calculated or estimated in such manner as may be prescribed[7]. A person's income in respect of a week[8] must be calculated in accordance with prescribed rules; and the rules may provide for the calculation to be made by reference to an average over a period (which need not include the week concerned)[9]. Circumstances may be prescribed in which:

(1) a person is treated as possessing capital or income which he does not possess[10];
(2) capital or income which a person does possess is to be disregarded[11];
(3) income is to be treated as capital[12];
(4) capital is to be treated as income[13].

1 For the meaning of 'family' see para 379 note 5 ante. As to entitlement to council tax benefit see para 376 ante. As to the provision made for the Social Security Contributions and Benefits Act 1992 s 136 to be disapplied in cases where a claimant has attained the qualifying age for state pension credit see para 372 ante.
2 'Prescribed' means specified in or determined in accordance with regulations: ibid s 137(1). As to regulations so made generally see para 371 note 1 ante. As to the regulations made in relation to income and capital see the Council Tax Benefit Regulations 2006, SI 2006/215, Pt 4 (regs 15–42, Schs 3–5) (Pt 4 amended by SI 2005/2465; SI 2005/2502; SI 2005/3360; SI 2006/217; SI 2006/588; SI 2006/2378; SI 2006/2813; SI 2007/719; SI 2007/688; SI 2007/1619; SI 2007/1749; SI 2007/2618), the Council Tax Benefit Regulations 2006, SI 2006/215, Pt 5 (regs 43–56) (Pt 5 amended by SI 2005/3238; SI 2006/217; SI 2006/718; SI 2006/1752; SI 2006/2378; SI 2007/1632); and the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, SI 2006/216, Pt 4 (regs 13–39, Schs 2–4) (Pt 4 amended by SI 2006/588; SI 2006/2378; SI 2006/2813; SI 2007/688; SI 2007/1619; SI 2007/1749; SI 2007/2618); and see para 375 ante.
3 Social Security Contributions and Benefits Act 1992 s 136(1).
4 As to which see note 2 supra.
5 Ie the amount prescribed under the Social Security Contributions and Benefits Act 1992 s 134(1) (see para 379 ante): see s 136(2).

6 Ibid s 136(2).
7 Ibid s 136(3).
8 For the meaning of 'week' see para 376 note 12 ante.
9 Social Security Contributions and Benefits Act 1992 s 136(4).
10 Ibid s 136(5)(a).
11 Ibid s 136(5)(b).
12 Ibid s 136(5)(c).
13 Ibid s 136(5)(d).

(iii) Administration of Council Tax Benefit

382. Provisions that may be made for the administration of council tax benefit. Regulations under the Social Security Administration Act 1992[1] may provide as follows as regards council tax benefit[2]:

(1) for requiring a claim for a benefit to be made by such person, in such manner and within such time as may be prescribed[3];
(2) for treating a claim made in such circumstances as may be prescribed as having been made at such date earlier or later than that at which it is made as may be prescribed[4];
(3) for permitting a claim to be made, or treated as if made, for a period wholly or partly after the date on which it is made[5];
(4) for permitting an award on a claim to be made for such a period subject to the condition that the claimant satisfies the requirements for entitlement when benefit becomes payable, or any right to a reduction becomes available, under the award[6];
(5) for a review of any award if those requirements are found not to have been satisfied[7];
(6) for the disallowance on any ground of a person's claim for a benefit to be treated as a disallowance of any further claim by that person for that benefit until the grounds of the original disallowance have ceased to exist[8];
(7) for enabling one person to act for another in relation to a claim for a benefit and for enabling such a claim to be made and proceeded with in the name of a person who has died[9];
(8) for requiring any information or evidence needed for the decision on a claim or of any question arising in connection with a claim to be furnished by such person as may be prescribed in accordance with the regulations[10];
(9) for requiring such person as may be prescribed in accordance with the regulations to furnish any information or evidence needed for a determination whether a decision on an award of a benefit should be revised[11] or should be superseded[12];
(10) for the time when and manner in which any benefit (or part) which takes the form of a payment is to be paid, and for the information and evidence to be furnished in connection with the payment[13];
(11) for the time when the right to make a reduction may be exercised[14];
(12) for notice to be given of any change of circumstances affecting the continuance of entitlement to a benefit[15];
(13) for the day on which entitlement to a benefit is to begin or end[16];
(14) for calculating the amount of a benefit according to a prescribed scale or otherwise adjusting it so as to avoid fractional amounts or facilitate computation[17];
(15) in the case of any benefit (or part) which takes the form of a payment, for payment or distribution to or among persons claiming to be entitled on the death of any person, and for dispensing with strict proof of their title[18];

(16) in the case of any benefit (or part) which takes the form of a payment, for the circumstances and manner in which payment may be made to one person on behalf of another for any purpose, which may be to discharge, in whole or in part, an obligation of the person entitled to the benefit or any other person[19];

(17) for making a payment on account of a benefit, or conferring a right to make a reduction on account, where no claim has been made and it is impracticable for one to be made immediately[20];

(18) for making a payment on account of a benefit, or conferring a right to make a reduction on account, where a claim has been made but it is impracticable for the claim or an appeal, reference, review or application relating to it to be determined immediately[21];

(19) for making a payment on account of a benefit, or conferring a right to make a reduction on account, where an award has been made but it is impracticable to institute the benefit immediately[22];

(20) generally as to administration[23].

1 As to the exercise of the power to make regulations, orders and schemes under the Social Security Administration Act 1992 see s 189 (as amended); and SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) para 30.

2 See ibid s 6(1) (amended by the Local Government Finance Act 1992 s 103, Sch 9 para 12(1)(a)).

As to regulations made partly under the Social Security Administration Act 1992 s 6 (as amended) in relation to claims see the Council Tax Benefit Regulations 2006, SI 2006/215, Pt 8 (regs 68–74A) (amended by SI 2006/2967; SI 2006/2968; SI 2007/719; SI 2007/1331; SI 2007/1749; SI 2007/2618; SI 2007/2911); the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, SI 2006/216, Pt 7 (regs 52–59A) (amended by SI 2005/2502; SI 2006/217; SI 2006/2967; SI 2006/2968; SI 2007/719; SI 2007/1331; SI 2007/1749; SI 2007/2618; SI 2007/2911); and see para 375 ante.

As to regulations made partly under the Social Security Administration Act 1992 s 6 (as amended) in relation to the decision of claims see the Council Tax Benefit Regulations 2006, SI 2006/215, Pt 9 (regs 75–76); the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, SI 2006/216, Pt 9 (regs 60–61); and see para 375 ante.

As to regulations made partly under the Social Security Administration Act 1992 s 6 (as amended) in relation to awards or payment of benefit see the Council Tax Benefit Regulations 2006, SI 2006/215, Pt 10 (regs 77–81); the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, SI 2006/216, Pt 9 (regs 62–66); and see para 375 ante.

As to regulations made partly under the Social Security Administration Act 1992 s 6 (as amended) in relation to the provision of information for claims, awards etc see the Council Tax Benefit Regulations 2006, SI 2006/215, Pt 12 (regs 91–97) (amended by SI 2007/2911); the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, SI 2006/216, Pt 11 (regs 76–82) (amended by SI 2007/2911); and see para 375 ante.

Regulations under the Social Security Administration Act 1992 s 6 (as amended) may include provision in relation to council tax benefit that prescribed provisions are to apply instead of prescribed provisions of the Local Government Finance Act 1992 Pt I (ss 1–69) (as amended) (see para 228 et seq ante), or that prescribed provisions of Pt I (as amended) are not to apply or are to apply subject to prescribed amendments or adaptations: Social Security Administration Act 1992 s 6(2) (amended by the Local Government Finance Act 1992 Sch 9 para 12(2)). References in the Social Security Administration Act 1992 s 6(2) (as amended) to the Local Government Finance Act 1992 Pt I (as amended) include references to regulations made under Pt I (as amended): Social Security Administration Act 1992 s 6(3) (substituted by the Local Government Finance Act 1992 Sch 9 para 12(3)). 'Prescribe' means prescribe by regulations; and 'prescribed' must be construed accordingly: see the Social Security Administration Act 1992 s 191(1) (definition amended by the Welfare Reform Act 2007 s 40, Sch 5 paras 2, 10).

3 Social Security Administration Act 1992 s 6(1)(a).

4 Ibid s 6(1)(b).

5 Ibid s 6(1)(c).

6 Ibid s 6(1)(d) (amended by the Local Government Finance Act 1992 s 117(2), Sch 9 para 12(1)(b), Sch 14).

7 Social Security Administration Act 1992 s 6(1)(e).

8 Ibid s 6(1)(f).

9 Ibid s 6(1)(g).

10 Ibid s 6(1)(h).

11 Ibid s 6(1)(hh)(i) (s 6(1)(hh) added by the Child Support, Pensions and Social Security Act 2000 s 68, Sch 7 para 21(2)). The text refers to a decision as to whether an award or a benefit should be revised under the Child Support, Pensions and Social Security Act 2000 Sch 7 para 3 (see SOCIAL SECURITY AND PENSIONS): see the Social Security Administration Act 1992 s 6(1)(hh)(i) (as so added).
12 Ibid s 6(1)(hh)(ii) (as added: see note 11 supra). The text refers to a decision as to whether an award or a benefit should be superseded under the Child Support, Pensions and Social Security Act 2000 Sch 7 para 4 (as amended) (see SOCIAL SECURITY AND PENSIONS): see the Social Security Administration Act 1992 s 6(1)(hh)(ii) (as so added).
13 Ibid s 6(1)(i).
14 Ibid s 6(1)(j) (amended by the Local Government Finance Act 1992 Sch 9 para 12(1)(c), Sch 14).
15 Social Security Administration Act 1992 s 6(1)(k).
16 Ibid s 6(1)(l).
17 Ibid s 6(1)(m).
18 Ibid s 6(1)(p).
19 Ibid s 6(1)(q).
20 Ibid s 6(1)(r) (s 6(1)(r)–(t) amended by the Local Government Finance Act 1992 Sch 9 para 12(1)(c), Sch 14).
21 Social Security Administration Act 1992 s 6(1)(s) (as amended: see note 20 supra).
22 Ibid s 6(1)(t) (as amended: see note 20 supra).
23 Ibid s 6(1)(u).

383. Provisions made for the determination of claims for council tax benefit. Regulations under the Social Security Act 1998[1] must provide that, where a person claims council tax benefit, the authority to which the claim is made is to notify the person of its determination of the claim[2]. Any such notification must be given in such form as may be prescribed[3].

Regulations also may make provision requiring authorities to which claims for council tax benefit are made by (or in respect of) persons who have been entitled to a jobseeker's allowance[4] or income support[5] or state pension credit[6] to give priority, in prescribed circumstances, to those claims over other claims for any such benefit[7].

Provision is made by statute and regulations for revision of and appeals against decisions relating to council tax benefit[8].

1 As to the exercise of the power to make regulations and orders under the Social Security Act 1998 see s 79 (as amended); and SOCIAL SECURITY AND PENSIONS.
2 Ibid s 34(1). As to the provision made as mentioned in the text in relation to the notification of a decision see the Council Tax Benefit Regulations 2006, SI 2006/215, reg 76, Sch 8; and the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, SI 2006/216, reg 61, Sch 7 (Sch 7 amended by SI 2005/2502; SI 2006/217); and see para 375 ante.
3 Social Security Act 1998 s 34(2). See note 2 supra.
4 As to income-based jobseeker's allowance see SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) para 271 et seq.
5 As to income support see SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) para 176 et seq.
6 As to state pension credit see SOCIAL SECURITY AND PENSIONS.
7 Social Security Act 1998 s 34(3) (amended by the State Pension Credit Act 2002 s 14, Sch 2 Pt 3 paras 40, 41). See note 2 supra.
8 See the Child Support, Pensions and Social Security Act 2000 s 68, Sch 7 (Sch 7 as amended: prospectively further amended), which makes provision with regard to the revision of, and appeals from, decisions made by the relevant authorities concerning a person's entitlement to housing benefit and council tax benefit. In addition to introductory and interpretative provisions (Child Support, Pensions and Social Security Act 2000 Sch 7 paras 1, 23), these provisions relate to:
   (1) decisions on claims for benefit (Sch 7 para 2);
   (2) the revision of decisions (Sch 7 para 3);
   (3) decisions which supersede earlier decisions (Sch 7 para 4 (amended by the Welfare Reform Act 2007 s 30(3)));
   (4) the use of experts by the relevant authorities (Child Support, Pensions and Social Security Act 2000 Sch 7 para 5);
   (5) appeals to an appeal tribunal (Sch 7 para 6);
   (6) the redetermination of appeals by an appeal tribunal (Sch 7 para 7);
   (7) appeals from an appeal tribunal to a commissioner (Sch 7 para 8);

(8) appeals from a commissioner on a point of law to the Court of Appeal (Sch 7 para 9);
(9) procedure generally (Sch 7 para 10);
(10) the finality of decisions (Sch 7 para 11);
(11) any matters arising as respects any decision of a relevant authority, appeal tribunal or commissioner (Sch 7 para 12);
(12) the suspension of benefit in prescribed circumstances (Sch 7 para 13);
(13) the suspension, and subsequent termination, of benefit in circumstances where there is a failure to furnish information (Sch 7 paras 14, 15);
(14) decisions and appeals which involve issues arising on appeal in other cases (Sch 7 paras 16, 17 (both prospectively amended by the Constitutional Reform Act 2005 s 59(5), Sch 11 Pt 1 para 1(2)));
(15) restrictions on the entitlement to benefit in certain cases of error (Child Support, Pensions and Social Security Act 2000 Sch 7 para 18 (prospectively amended by the Constitutional Reform Act 2005 s 40(4), Sch 9 Pt 1 para 72));
(16) the correction of errors and the setting aside of decisions (Child Support, Pensions and Social Security Act 2000 Sch 7 para 19); and
(17) regulation-making powers in general (Sch 7 para 20).

Provision relating to the procedure to be followed in respect of appeals under Sch 7 (as amended; prospectively further amended) is made by the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001, SI 2001/1002 (amended by SI 2002/490; SI 2002/1379; SI 2002/1703; SI 2003/325; SI 2003/1050; SI 2003/1581; SI 2003/2275; SI 2003/2399; SI 2004/14; SI 2004/3368; SI 2005/238; SI 2005/337; SI 2005/2677; SI 2005/2878; SI 2005/2894; SI 2006/217; SI 2006/644), which also apply certain provisions of the Social Security and Child Support (Decisions and Appeals) Regulations 1999, SI 1999/991 (as amended) (see SOCIAL SECURITY AND PENSIONS), to such appeals, subject to modifications. For transitional provision and savings relating to the coming into force of the Child Support, Pensions and Social Security Act 2000 Sch 7 (as amended; prospectively further amended) see the Housing Benefit and Council Tax Benefit (Decisions and Appeals) (Transitional and Savings) Regulations 2001, SI 2001/1264. As to housing benefit see HOUSING vol 22 (2006 Reissue) para 140 et seq.

384. Sharing of functions as regards claims and information. Regulations under the Social Security Administration Act 1992[1] may, for the purpose of supplementing the persons or bodies to whom claims for relevant benefits[2] may be made, make provision[3]:

(1) as regards housing benefit or council tax benefit, for claims for that benefit to be made to a Minister of the Crown, or a person providing services to a Minister of the Crown[4];

(2) as regards any other relevant benefit, for claims for that benefit to be made to a local authority[5], a person providing services to a local authority, or a person authorised to exercise any function of a local authority relating to housing benefit or council tax benefit[6];

(3) as regards any relevant benefit, for claims for that benefit to be made to a county council in England[7], a person providing services to a county council in England, or a person authorised to exercise any function a county council in England has in relation to the sharing of functions as regards claims and information[8].

In addition, regulations may make provision for or in connection with[9]:

(a) the forwarding by a relevant authority[10] of claims so received[11] and of information or evidence supplied in connection with making such claims (whether supplied by persons making the claims or by other persons)[12];

(b) the receiving and forwarding by a relevant authority of information or evidence relating to social security or work matters[13] supplied by, or the obtaining by a relevant authority of such information or evidence[14] from persons making (or who have made) claims for a relevant benefit[15] or from other persons in connection with such claims[16], including information or evidence not relating to the claims or benefit in question[17];

(c) the recording by a relevant authority of information or evidence relating to

social security or work matters supplied to (or obtained by) the authority and the holding by the authority of such information or evidence (whether as supplied or obtained or as recorded)[18];

(d) the giving of information or advice with respect to social security or work matters by a relevant authority to persons making (or who have made) claims for a relevant benefit[19];

(e) the verification by a relevant authority of information or evidence supplied to or obtained by the authority in connection with a claim for or an award of a relevant benefit[20].

Such regulations may make different provision for different areas[21].

Functions relating to claims for housing benefit and council tax benefit which are conferred upon the Secretary of State by such regulations may, to such extent as is specified, be exercised by (or by employees of) such person (if any) as may be authorised in that behalf by the Secretary of State[22].

1 As to the exercise of the power to make regulations, orders and schemes under the Social Security Administration Act 1992 see s 189 (as amended); and SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) para 30.

2 For these purposes, 'relevant benefit' means housing benefit, council tax benefit or any other benefit prescribed for the purposes of the Social Security Administration Act 1992 s 7A (as added and amended): s 7A(6)(d) (s 7A added by the Welfare Reform and Pensions Act 1999 s 71). 'Benefit' includes child support or a war pension (any reference to a claim being read, in relation to child support, as a reference to an application (or an application treated as having been made) under the Child Support Act 1991 for a maintenance calculation (see CHILDREN AND YOUNG PERSONS vol 5(3) (2008 Reissue) para 558)): Social Security Administration Act 1992 s 7A(6)(a) (as so added; amended by the Child Support, Pensions and Social Security Act 2000 s 26, Sch 3 para 12). 'War pension' means a war pension within the meaning of the Social Security Act 1989 s 25 (definition as amended) (see WAR AND ARMED CONFLICT vol 49(1) (2005 Reissue) para 595): Social Security Administration Act 1992 s 7A(6) (as so added). 'Prescribe' means prescribe by regulations; and 'prescribed' must be construed accordingly: see s 191(1) (definition amended by the Welfare Reform Act 2007 s 40, Sch 5 paras 2, 10). As to housing benefit see HOUSING vol 22 (2006 Reissue) para 140 et seq.

3 Social Security Administration Act 1992 s 7A(1) (as added: see note 2 supra).

See the Social Security (Claims and Information) Regulations 1999, SI 1999/3108 (amended by SI 2000/897; SI 2000/1926; SI 2001/1189; SI 2002/2497; SI 2003/492; SI 2005/2877; SI 2006/217); the Social Security (Work-focused Interviews) Regulations 2000, SI 2000/897 (amended by SI 2000/1926; SI 2001/652; SI 2002/1703; SI 2005/2727; SI 2006/217); the Social Security (Jobcentre Plus Interviews) Regulations 2002, SI 2002/1703 (amended by SI 2002/2497; SI 2003/492; SI 2003/2439; SI 2004/959; SI 2005/2727; SI 2006/217; SI 2006/909; SI 2007/1034); the Council Tax Benefit Regulations 2006, SI 2006/215 (amended by SI 2005/2465; SI 2005/2502; SI 2005/2904; SI 2005/3238; SI 2005/3360; SI 2006/217; SI 2006/588; SI 2006/718; SI 2006/1026; SI 2006/1752; SI 2006/1981; SI 2006/2378; SI 2006/2528; SI 2006/2813; SI 2006/2967; SI 2006/2968; SI 2006/3341; SI 2007/688; SI 2007/719; SI 2007/1331; SI 2007/1619; SI 2007/1632; SI 2007/1749; SI 2007/2470; SI 2007/2538; SI 2007/2618; SI 2007/2911); the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, SI 2006/216 (amended by SI 2005/2465; SI 2005/2502; SI 2005/2904; SI 2005/3360; SI 2006/217; SI 2006/588; SI 2006/718; SI 2006/1026; SI 2006/1981; SI 2006/2378; SI 2006/2528; SI 2006/2813; SI 2006/2967; SI 2006/2968; SI 2006/3341; SI 2007/688; SI 2007/719; SI 2007/1331; SI 2007/1619; SI 2007/1749; SI 2007/2470; SI 2007/2538; SI 2007/2618; SI 2007/2911); the Housing Benefit and Council Tax Benefit (Consequential Provisions) Regulations 2006, SI 2006/217 (amended by SI 2006/588); and the Social Security (Claims and Information) Regulations 2007, SI 2007/2911.

The Secretary of State may make payments to local authorities in respect of expenses incurred in connection with the carrying out of any function conferred by the Social Security Administration Act 1992 s 7A (as added and amended), amongst other specified functions, which for these purposes includes processing claims as permitted by the Social Security (Claims and Information) Regulations 1999, SI 1999/3108 (as amended) and conducting work-focused interviews: see the Social Security Administration Act 1992 s 140EE (added by the Welfare Reform and Pensions Act 1999 s 84(1), Sch 12 Pt II paras 79, 80); and the Relevant Functions (Payments to Authorities) Order 2000, SI 2000/848 (amended by SI 2000/1810). The Social Security Administration Act 1992 s 140B(1), (3), (4), (5)(b), (8) (as added and amended) (see para 406 post) and s 140C (as added and amended) (see para 407 post) apply to such payments as they apply to the payment of a subsidy: see s 140EE(3) (s 140EE

as so added; s 140EE(3) amended by the Local Government Act 2003 s 127(2), Sch 8 Pt 1). The Secretary of State may (without prejudice to the generality of his powers in relation to the amount of subsidy) take into account the fact that an amount has been paid under this section in respect of costs falling within the Social Security Administration Act 1992 s 140B(4A)(a) (as added) (see para 406 post): see s 140EE(4) (as so added). For the meaning of 'subsidy' see para 405 note 4 post.

4 Ibid s 7A(1)(a) (as added: see note 2 supra). As to the Secretary of State see para 228 ante.

5 For these purposes, 'local authority' means an authority administering housing benefit or council tax benefit: ibid s 7A(6)(b) (as added: see note 2 supra).

6 Ibid s 7A(1)(b) (as added: see note 2 supra).

7 For the meaning of 'England' see para 1 note 2 ante. As to local government areas and authorities in England and their councils generally see LOCAL GOVERNMENT vol 29(1) (Reissue) para 25 et seq.

8 Social Security Administration Act 1992 s 7A(1)(c) (s 7A as added (see note 2 supra); s 7A(1)(c) added by the Welfare Reform Act 2007 s 41(2)(a)). The text refers to any function a county council in England has under the Social Security Administration Act 1992 s 7A (as added and amended): see s 7A(1)(c) (as so added).

9 Ibid s 7A(2) (as added: see note 2 supra).

10 Ibid s 7A(2)(a) (as added: see note 2 supra). For these purposes, 'relevant authority' means a Minister of the Crown or a person providing services to a Minister of the Crown, a local authority or a person providing services to a local authority, a county council in England or a person providing services to a county council in England, a person authorised to exercise any function of a local authority relating to housing benefit or council tax benefit and a person authorised to exercise any function a county council in England has under s 7A (as added and amended): see s 7A(6)(c) (s 7A as so added; s 7A(6)(c) substituted by the Welfare Reform Act 2007 s 41(2)(e)).

11 Social Security Administration Act 1992 s 7A(2)(a)(i) (as added: see note 2 supra). The text refers to claims received by virtue of any provision authorised by s 7A(1) (as added and amended) (see the text and notes 1–8 supra): see s 7A(2)(a)(i) (as so added).

12 Ibid s 7A(2)(a)(ii) (as added: see note 2 supra).

13 For these purposes, 'social security or work matters' means matters relating to social security, child support or war pensions, or employment or training: ibid s 7A(6)(e) (s 7A as so added; s 7A(6)(e) substituted by the Employment Act 2002 s 53, Sch 7 paras 8, 12(b)).

14 Social Security Administration Act 1992 s 7A(2)(b) (as added (see note 2 supra); amended by the Employment Act 2002 Sch 7 paras 8, 12(a)).

15 Social Security Administration Act 1992 s 7A(2)(b)(i) (as added: see note 2 supra). For these purposes, references to claims for a relevant benefit are to such claims whether made as mentioned in s 7A(1)(a) (as added) (see head (1) in the text), s 7A(1)(b) (as added) (see head (2) in the text) or s 7A(1)(c) (as added) (see head (3) in the text), or not: see s 7A(3) (s 7A as so added; s 7A(3) amended by the Welfare Reform Act 2007 s 41(2)(c), (d)).

16 Social Security Administration Act 1992 s 7A(2)(b)(ii) (as added: see note 2 supra).

17 Ibid s 7A(2)(b) (as added: see note 2 supra). A relevant authority may use for a relevant purpose any social security information which it holds: see s 7B (added by the Welfare Reform Act 2007 s 41(1)); and SOCIAL SECURITY AND PENSIONS.

18 Social Security Administration Act 1992 s 7A(2)(c) (as added (see note 2 supra); amended by the Employment Act 2002 Sch 7 paras 8, 12(a)).

19 Social Security Administration Act 1992 s 7A(2)(d) (as added (see note 2 supra); amended by the Employment Act 2002 Sch 7 paras 8, 12(a)). For these purposes, references to claims for a relevant benefit are to such claims whether made as mentioned in the Social Security Administration Act 1992 s 7A(1)(a) (as added) (see head (1) in the text), s 7A(1)(b) (as added) (see head (2) in the text) or s 7A(1)(c) (as added) (see head (3) in the text), or not: see s 7A(3) (as added and amended: see note 15 supra).

20 Ibid s 7A(2)(e) (s 7A as added (see note 2 supra); s 7A(2)(e) added by the Welfare Reform Act 2007 s 41(2)(b)). For these purposes, references to claims for a relevant benefit are to such claims whether made as mentioned in the Social Security Administration Act 1992 s 7A(1)(a) (as added) (see head (1) in the text), s 7A(1)(b) (as added) (see head (2) in the text) or s 7A(1)(c) (as added) (see head (3) in the text), or not: see s 7A(3) (as added and amended: see note 15 supra).

21 Ibid s 7A(4) (as added: see note 2 supra). Regulations under any other enactment may make such different provision for different areas as appears to the Secretary of State expedient in connection with any exercise by regulations under s 7A (as added and amended) of the power conferred by s 7A(4) (as added): s 7A(5) (as so added).

22 See the Contracting Out (Functions relating to Social Security) Order 2000, SI 2000/898, art 2. Functions relating to claims for benefits other than housing benefit and council tax benefit conferred upon a local authority by regulations under the Social Security Administration Act 1992 s 7A (as added and amended) may to the extent specified be exercised by (or by employees of) such person (if any) as may be authorised in that behalf by the authority whose function it is: see the Contracting Out (Functions relating to Social Security) Order 2000, SI 2000/898, art 3.

385. Relationship between council tax benefit and other benefits. Regulations under the Social Security Administration Act 1992[1] may provide for a claim for one relevant benefit[2] to be treated, either in the alternative or in addition, as a claim for any other relevant benefit that may be prescribed[3].

1 As to the exercise of the power to make regulations, orders and schemes under the Social Security Administration Act 1992 see s 189 (as amended); and SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) para 30.

2 For these purposes, relevant benefits are:

(1) any benefit to which the Social Security Administration Act 1992 s 5 (as amended) (claims for and payments of benefit) (see SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) para 330) applies (s 7(3)(a)); and

(2) council tax benefit (s 7(3)(b) (substituted by the Local Government Finance Act 1992 s 103, Sch 9 para 13)).

As to the meaning of 'benefit' see para 384 note 2 ante.

3 Social Security Administration Act 1992 s 7(1). 'Prescribe' means prescribe by regulations; and 'prescribed' must be construed accordingly: see s 191(1) (definition amended by the Welfare Reform Act 2007 s 40, Sch 5 paras 2, 10). Regulations may provide for treating a payment made or right conferred by virtue of regulations under the Social Security Administration Act 1992 s 5(1)(r) (see SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) para 330) or s 6(1)(r)–(t) (as amended) (see para 382 ante) as made or conferred on account of any relevant benefit that is subsequently awarded or paid: s 7(2). As to the regulations so made see SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) para 330 et seq.

386. Nature of benefits. Regulations under the Social Security Administration Act 1992[1] must provide that where a person is entitled to council tax benefit[2] in respect of council tax payable[3] to a billing authority[4] the benefit is to take such of the following forms as is prescribed[5] in the case of the person[6]:

(1) a payment or payments by the authority to the person[7];

(2) a reduction in the amount the person is or becomes liable to pay to the authority in respect of the tax for the relevant or any subsequent financial year[8];

(3) both such payment or payments and such reduction[9].

Such regulations may include such supplementary, incidental or consequential provisions as appear to the Secretary of State[10] to be necessary or expedient[11].

1 As to the exercise of the power to make regulations, orders and schemes under the Social Security Administration Act 1992 see s 189 (as amended); and SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) para 30.

2 As to entitlement to council tax benefit see para 376 ante.

3 References in any enactment or instrument (whenever passed or made) to payment, in relation to council tax benefit, include any of the ways of giving the benefit mentioned in heads (1)–(3) in the text: Social Security Administration Act 1992 s 138(1) (substituted by the Local Government Finance Act 1992 ss 103, 117, Sch 9 para 19(1), Sch 14; and amended by the Housing Act 1996 s 121, Sch 12 para 2).

4 For the meaning of 'billing authority' see para 229 ante; definition applied by virtue of the Social Security Administration Act 1992 s 191 (definition substituted by the Local Government Finance Act 1992 Sch 9 para 25(a)).

5 'Prescribe' means prescribe by regulations; and 'prescribed' must be construed accordingly: see the Social Security Administration Act 1992 s 191(1) (definition amended by the Welfare Reform Act 2007 s 40, Sch 5 paras 2, 10). As to the regulations made for the purposes of the Social Security Administration Act 1992 s 138(1) (as substituted and amended) see the Council Tax Benefit Regulations 2006, SI 2006/215, Pt 10 (regs 77–81); and the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, SI 2006/216, Pt 9 (regs 62–66); and see para 375 ante.

6 Social Security Administration Act 1992 s 138(1) (as substituted and amended: see note 3 supra).

7 Ibid s 138(1)(a) (as substituted: see note 3 supra).

8 Ibid s 138(1)(b) (as substituted: see note 3 supra). For the purposes of s 138(1) (as substituted and amended), the relevant financial year is the financial year in which the relevant day falls; and the relevant day is the day in respect of which the person concerned is entitled to the benefit: s 138(5) (amended by the Local Government Finance Act 1992 Sch 9 para 19(3)). For the meaning of 'financial year' see para 231 note 1 ante; definition applied by virtue of the Social Security Administration Act 1992 s 191 (definition added by the Local Government Finance Act 1992 Sch 9 para 25(b)).

9 Social Security Administration Act 1992 s 138(1)(c) (as substituted: see note 3 supra).

10 As to the Secretary of State see para 228 ante.

11 Social Security Administration Act 1992 s 138(9) (amended by the Local Government Finance Act 1992 Sch 9 para 19(5)). Any such provisions as are mentioned in the text may include provisions amending or adapting provisions of the Local Government Finance Act 1992 Pt I (ss 1–69) (as amended) (see para 231 et seq ante): see the Social Security Administration Act 1992 s 138(9) (as so amended).

387. Excess benefits. Regulations under the Social Security Administration Act 1992[1] may make provision as to any case where a billing authority[2] has allowed council tax benefit to a person and the amount allowed exceeds the amount to which he is entitled in respect of the benefit[3]. The regulations may provide that[4]:

(1) a sum equal to the excess is to be due from the person concerned to the authority (whatever the form the benefit takes)[5];

(2) any liability under any provision included under head (1) above must be met by such method from[6]: (a) payment by the person concerned[7]; (b) addition to any amount payable in respect of council tax[8]; (c) deduction from prescribed benefits[9], as is prescribed[10] as regards the case concerned, or by such combination of two or all three of the methods as is prescribed as regards the case concerned[11].

In a case where the regulations provide that a sum or part of a sum is to be paid, and the sum or part is not paid on or before such day as may be prescribed, the regulations may provide that the sum or part is recoverable in a court of competent jurisdiction[12].

The regulations may provide that they are not to apply as regards any case falling within a prescribed category[13].

1 As to the exercise of the power to make regulations, orders and schemes under the Social Security Administration Act 1992 see s 189 (as amended); and SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) para 30.

2 For the meaning of 'billing authority' see para 229 ante; definition applied by virtue of ibid s 191 (definition substituted by the Local Government Finance Act 1992 s 103, Sch 9 para 25(a)).

3 Social Security Administration Act 1992 s 76(1) (amended by the Local Government Finance Act 1992 Sch 9 para 15(1), (3)). As to the meaning of 'benefit' see para 384 note 2 ante. As to entitlement to council tax benefit see para 376 ante. As to such provision as is made as mentioned in the text in relation to excess benefit see the Council Tax Benefit Regulations 2006, SI 2006/215, Pt 11 (regs 82–90) (Pt 11 amended by SI 2005/2904; SI 2006/217); and the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, SI 2006/216, Pt 10 (regs 67–75) (Pt 10 amended by SI 2005/2904; SI 2006/217); and see para 375 ante. See also SOCIAL SECURITY AND PENSIONS.

4 Social Security Administration Act 1992 s 76(2) (amended by the Local Government Finance Act 1992 s 117(2), Sch 9 para 15(2), Sch 14).

5 Social Security Administration Act 1992 s 76(2)(a).

6 Ibid s 76(2)(b).

7 Ibid s 76(3)(a).

8 Ibid s 76(3)(b) (amended by the Local Government Finance Act 1992 Sch 9 para 15(1), (3)).

9 Social Security Administration Act 1992 s 76(3)(c).

10 'Prescribe' means prescribe by regulations; and 'prescribed' must be construed accordingly: see ibid s 191(1) (definition amended by the Welfare Reform Act 2007 s 40, Sch 5 paras 2, 10). See notes 3 supra, 11–12 infra.

11 Social Security Administration Act 1992 s 76(2)(b).

As to the provision made further to heads (2)(a) and (2)(b) in the text see the Council Tax Benefit Regulations 2006, SI 2006/215, reg 86; and the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, SI 2006/216, reg 71. As to the provision made further to head (2)(c) in the text see the Council Tax Benefit Regulations 2006, SI 2006/215, reg 90 (amended by SI 2005/2904; SI 2006/217); and the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, SI 2006/216, reg 75 (amended by SI 2005/2904; SI 2006/217).

12 Social Security Administration Act 1992 s 76(6).

As to such provision for recovery as is made as mentioned in the text see the Council Tax Benefit Regulations 2006, SI 2006/215, reg 87; and the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, SI 2006/216, reg 72.

13 Social Security Administration Act 1992 s 76(8). See note 3 supra.

388. Shortfall in benefits. Regulations under the Social Security Administration Act 1992[1] may make provision as to any case where a billing authority[2] has allowed council tax benefit to a person and the amount allowed is less than the amount to which he is entitled in respect of the benefit[3].

1 As to the exercise of the power to make regulations, orders and schemes under the Social Security Administration Act 1992 see s 189 (as amended); and SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) para 30.

2 For the meaning of 'billing authority' see para 229 ante; definition applied by virtue of ibid s 191 (definition substituted by the Local Government Finance Act 1992 s 103, Sch 9 para 25(a)).

3 Social Security Administration Act 1992 s 77(1) (amended by the Local Government Finance Act 1992 Sch 9 para 16(1)). As to the meaning of 'benefit' see para 384 note 2 ante. As to entitlement to council tax benefit see para 376 ante.

As to the regulations made in relation to shortfall in benefits for the purposes set out in the text see the Council Tax Benefit Regulations 2006, SI 2006/215, reg 79; and the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, SI 2006/216, reg 64; and see para 375 ante.

389. Offences relating to administration of benefit. Provision is made in relation to relevant social security legislation[1] for a person to be guilty of an offence in cases where such a person:

(1) intentionally delays or obstructs an inspector in the exercise of any of his powers, refuses or neglects to comply with any requests for electronic access to information[2] or refuses or neglects to answer any question or to furnish any information or to produce any document when required to do so[3];

(2) with a view to obtaining (whether for himself or for some other person) any benefit or other payment or advantage under the relevant social security legislation, dishonestly: (a) makes a false statement or representation[4]; (b) produces or furnishes, or causes or allows to be produced or furnished, any document or information which is false in a material particular[5]; (c) dishonestly fails to give prompt notification of a change of circumstances which he is required to notify[6]; or (d) dishonestly causes or allows another person to fail to give prompt notification of a change of circumstances which the other person is required to notify[7];

(3) for the purpose of obtaining (whether for himself or for some other person) any benefit or other payment under the relevant social security legislation, or for any other purpose connected with that legislation[8]: (a) makes a statement or representation which he knows to be false[9]; (b) produces or furnishes, or knowingly causes or knowingly allows to be produced or furnished, any document or information which he knows to be false in a material particular[10]; (c) fails to give prompt notification of a change of circumstances which he is required to notify[11]; or (d) causes or allows another person to fail to give prompt notification of a change of circumstances which the other person is required to notify[12].

1 For the meaning of 'relevant social security legislation' for these purposes see SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) para 401.

2 Ie including a local authority request under the Social Security Administration Act 1992 s 110AA (as added): see para 390 post.

3 See the Social Security Administration Act 1992 s 111(1) (as amended); and SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) para 404.

4 See ibid s 111A(1)(a) (as amended); and SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) para 404.
5 See ibid s 111A(1)(b); and SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) para 404.
6 See ibid s 111A(1A), (1C), (1D), (1F), (1G) (as added); and SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) para 404.
7 See ibid s 111A(1B), (1C), (1E)–(1G) (as added); and SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) para 404.
8 See ibid s 112(1) (as amended); and SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) para 404.
9 See ibid s 112(1)(a); and SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) para 404.
10 See ibid s 112(1)(b); and SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) para 404.
11 See ibid s 112(1A), (1C), (1E)–(1F) (as added); and SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) para 404.
12 See ibid s 112(1B), (1D), (1E)–(1F) (as added); and SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) para 404.

(iv) Local Authority Powers

A. ENFORCEMENT

390. Authorisations by local authorities. An individual who for the time being has the authorisation of an authority administering housing benefit or council tax benefit[1] is entitled, for any one or more of the purposes mentioned in heads (1) to (3) below, to exercise any of the powers which are conferred on an authorised officer[2] in relation to the requiring of information[3] and entry upon premises[4]. Those purposes are[5]:

(1) ascertaining in relation to any case whether housing benefit or council tax benefit is or was payable in that case[6];
(2) ascertaining whether provisions of the relevant social security legislation that relate to housing benefit or council tax benefit are being, have been or are likely to be contravened (whether by particular persons or more generally)[7];
(3) preventing, detecting and securing evidence of the commission (whether by particular persons or more generally) of benefit offences relating to housing benefit or council tax benefit[8].

However, nothing in the above provisions conferring any power on an authorised officer in relation to housing benefit or council tax benefit requires that power to be exercised only in relation to cases in which the authority administering the benefit is the authority by whom that officer's authorisation was granted[9].

Where it appears to an authority administering housing benefit or council tax benefit:

(a) that a person who has or may have possession of or access to any information about any matter that is relevant for one or more of the specified investigatory purposes[10] keeps any electronic records[11];
(b) that the records contain or are likely, from time to time, to contain information about any matter that is relevant for any one or more of the purposes mentioned in heads (1) to (3) above[12]; and
(c) that facilities exist under which electronic access to those records is being provided (or is capable of being provided) by that person to other persons[13],

that authority may require that person to enter into arrangements under which authorised officers are allowed such access to those records[14]. However, an authorised officer:

(i) is entitled to obtain information in accordance with such arrangements only if his authorisation states that it applies for such purposes[15]; and
(ii) is not to seek to obtain any information in accordance with any such arrangements other than information which relates to a particular person[16], and could be the subject of a requirement[17] to disclose[18].

The matters that may be included in such arrangements may include:

(A) requirements as to the electronic access to records that is to be made available to authorised officers[19];
(B) requirements as to the keeping of records of the use that is made of the arrangements[20];
(C) requirements restricting the disclosure of information about the use that is made of the arrangements[21]; and
(D) such other incidental requirements as the authority in question considers appropriate in connection with allowing access to records to authorised officers[22].

An authorised officer who is allowed access in accordance with any such arrangements is entitled to make copies of, and to take extracts from, any records containing information which he is entitled to make the subject of a requirement such as is mentioned in head (ii) above[23]. An authority administering housing benefit or council tax benefit must not require any person to enter into arrangements for allowing authorised officers to have electronic access to records[24] or, otherwise than in pursuance of a requirement to do so, enter into any arrangements with a person referred to in head (a) above for allowing anyone acting on behalf of the authority for purposes connected with any benefit to have electronic access to any private information[25] contained in any records[26], except with the consent of the Secretary of State and subject to any conditions imposed by him by the provisions of the consent[27].

1 Ie an authorisation for the purposes of the Social Security Administration Act 1992 Pt VI (ss 109A–121DA) (as amended) (see also paras 389 ante, 396 post) (a 'local authority authorisation'): see s 110A(1) (s 110A added by the Social Security Administration (Fraud) Act 1997 s 12; and substituted by the Child Support, Pensions and Social Security Act 2000 s 67, Sch 6 paras 1, 3). An individual has the authorisation for the purposes of the Social Security Administration Act 1992 Pt VI (as amended) of an authority administering housing benefit or council tax benefit if, and only if, that authority has granted him an authorisation for those purposes and he is:

(1) an individual employed by that authority (s 110A(3)(a) (as so added and substituted));
(2) an individual employed by another authority or joint committee that carries out functions relating to housing benefit or council tax benefit on behalf of that authority (s 110A(3)(b) (as so added and substituted));
(3) an individual employed by a person authorised by or on behalf of: (a) the authority in question (s 110A(3)(c)(i) (as so added and substituted)); (b) any such authority or joint committee as is mentioned in head (2) supra (s 110A(3)(c)(ii) (as so added and substituted)), to carry out functions relating to housing benefit or council tax benefit for that authority or committee (s 110A(3)(c) (as so added and substituted));
(4) an official of a government department (s 110A(3)(d) (as so added and substituted)).

As to council tax benefit see para 371 et seq ante. As to housing benefit see HOUSING vol 22 (2006 Reissue) para 140 et seq.

The Social Security Administration Act 1992 s 109A(4) (as added) (requirements as to authorisations for investigators: see SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) para 401) applies in relation to a local authority authorisation as it applies in relation to an authorisation under s 109A (as added): s 110A(4) (as so added and substituted).

A local authority authorisation may be withdrawn at any time by the authority that granted it or by the Secretary of State: s 110A(5) (as so added and substituted). As to the Secretary of State see para 228 ante.

The certificate or other instrument containing the grant or withdrawal by any local authority of any local authority authorisation must be issued under the hand of either:

(i) the officer designated under the Local Government and Housing Act 1989 s 4 (as amended in relation to Scotland) (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 333) as the head of the authority's paid service (Social Security Administration Act 1992 s 110A(6)(a) (as so added and substituted)); or
(ii) the officer who is the authority's chief finance officer within the meaning of the Local Government and Housing Act 1989 s 5 (as amended) (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 335) (Social Security Administration Act 1992 s 110A(6)(b) (as so added and substituted)).

It is the duty of any authority with power to grant local authority authorisations to comply with any directions of the Secretary of State as to:

(A) whether or not such authorisations are to be granted by that authority (s 110A(7)(a) (as so added and substituted));
(B) the period for which authorisations granted by that authority are to have effect (s 110A(7)(b) (as so added and substituted));
(C) the number of persons who may be granted authorisations by that authority at any one time (s 110A(7)(c) (as so added and substituted)); and
(D) the restrictions to be contained by virtue of s 110A(4) (as added and substituted) in the authorisations granted by that authority for those purposes (s 110A(7)(d) (as so added and substituted)).

For the purposes of Pt VI (as amended), any reference to a person authorised to carry out any function relating to housing benefit or council tax benefit includes a reference to a person providing services relating to the benefit directly or indirectly to an authority administering it; and any reference to the carrying out of a function relating to such a benefit includes a reference to the provision of any services relating to it: s 121DA(6) (s 121DA added by the Child Support, Pensions and Social Security Act 2000 Sch 6 paras 1, 8).

2 For these purposes, 'authorised officer' means a person acting in accordance with any authorisation for the purposes of the Social Security Administration Act 1992 Pt VI (as amended) which is for the time being in force in relation to him: s 121DA(2) (as added: see note 1 supra).

3 Ie the powers conferred by ibid s 109B (as added and amended) (see SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) para 401): see s 110A(1) (as added and substituted: see note 1 supra).

4 Ibid s 110A(1) (as added and substituted: see note 1 supra). The powers of entry upon premises referred to in the text are those conferred by s 109C (as added) (see SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) para 401): s 110A(1) (as so added and substituted).

The entitlement to exercise the powers conferred by s 109B (as added and amended) (see SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) para 401) and s 109C (as added) (see SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) para 401) is subject to s 110A(8) (as added and substituted): see s 110A(1) (as so added and substituted). Accordingly, the powers so conferred have effect in the case of an individual who is an authorised officer by virtue of s 110A (as added and substituted) as if those provisions had effect:

(1) with the substitution for every reference to the purposes mentioned in s 109A(2) (as added) of a reference to the purposes mentioned in s 110A(2) (as added and substituted) (see heads (1) to (3) in the text) (s 110A(8)(a) (as so added and substituted; and amended by the Social Security Fraud Act 2001 ss 1(1), 19, Schedule)); and
(2) with the substitution for every reference to the relevant social security legislation of a reference to so much of it as relates to housing benefit or council tax benefit (Social Security Administration Act 1992 s 110A(8)(b) (as so added and substituted)); and
(3) with the omission of s 109B(2D) (as added; amended in relation to Scotland) (s 110A(8)(c) (s 110A as so added and substituted; s 110A(8)(c) added by the Social Security Fraud Act 2001 ss 1(1), (5)).

For the meaning of 'relevant social security legislation' for these purposes see SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) para 401.

As from a day to be appointed under the Welfare Reform Act 2007 s 70(2), the Social Security Administration Act 1992 s 110A(1), (8) (as added and substituted) are amended, and s 110A(1A)–(1C) added, by the Welfare Reform Act 2007 s 46. Accordingly, the reference in the Social Security Administration Act 1992 s 110A(1) (as added and substituted) to 'any one or more of the purposes specified in heads (1) to (3) below' is replaced by a reference to 'a relevant purpose': see s 110A(1) (as so added and substituted; prospectively amended by the Welfare Reform Act 2007 s 46(1), (2)). Each of the following is a relevant purpose:

(a) a purpose mentioned in the Social Security Administration Act 1992 s 110A(2) (as added and substituted) (see heads (1) to (3) in the text) (s 110A(1A)(a) (s 110A as so added and substituted; s 110A(1A)–(1C) prospectively added by the Welfare Reform Act 2007 s 46(1), (3)));
(b) a purpose mentioned in the Social Security Administration Act 1992 s 109A(2)(a), (c) or (d) (as added) (see SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) para 401) (s 110A(1A)(b) (prospectively added)).

If the Secretary of State prescribes conditions for the purposes of s 110A (as added and substituted; prospectively amended), an authority must not proceed under s 110A (as added and substituted; prospectively amended) for a purpose mentioned in s 109A(2)(a), (c) or (d) (as added) unless any such condition is satisfied: s 110A(1B) (prospectively added). An authorisation made for a purpose mentioned in s 109A(2)(a), (c) or (d) (as added) is subject to such restrictions as may be prescribed and is not valid in such circumstances as may be prescribed: s 110A(1C) (prospectively added). In any case where the relevant purpose is a purpose mentioned in s 109A(2)(a), (c) or (d) (as added), heads (1) and (2) supra do not apply: s 110A(8) (as so added, substituted and amended; prospectively further amended by the Welfare Reform Act 2007 s 46(1), (5)). 'Prescribe' means prescribe by regulations; and 'prescribed' must

be construed accordingly: see the Social Security Administration Act 1992 s 191(1) (definition amended by the Welfare Reform Act 2007 s 40, Sch 5 paras 2, 10). However, at the date at which this volume states the law, no such day had been appointed.

5 Social Security Administration Act 1992 s 110A(2) (as added and substituted: see note 1 supra).

As from a day to be appointed under the Welfare Reform Act 2007 s 70(2), the Social Security Administration Act 1992 s 110A(2) (as added and substituted) is amended so that the reference to 'those purposes' is replaced by a reference to 'the purposes in s 110A(2) (as added and substituted)': see s 110A(2) (as added and substituted; prospectively amended by the Welfare Reform Act 2007 s 46(1), (4)). However, at the date at which this volume states the law, no such day had been appointed.

6 Social Security Administration Act 1992 s 110A(2)(a) (as added and substituted: see note 1 supra).

7 Ibid s 110A(2)(b) (as added and substituted: see note 1 supra).

8 Ibid s 110A(2)(c) (as added and substituted: see note 1 supra).

9 Ibid s 110A(9) (as added and substituted: see note 1 supra).

10 Ie a person falling within ibid s 109B(2A) (as added and amended) (banks, insurers, gas, water and electricity providers etc) (see SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) para 401): see s 110AA(1)(a) (as added: see note 11 infra).

11 Ibid s 110AA(1)(a) (s 110AA added by the Social Security Fraud Act 2001 s 2(2)).

12 Social Security Administration Act 1992 s 110AA(1)(b) (as added: see note 11 supra).

13 Ibid s 110AA(1)(c) (as added: see note 11 supra).

14 Ibid s 110AA(1) (as added: see note 11 supra).

15 Ibid s 110AA(2)(a) (as added: see note 11 supra).

16 Ibid s 110AA(2)(b)(i) (as added: see note 11 supra).

17 Ie any requirement under ibid s 109B (as added and amended) (see SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) para 401) as may be imposed under any of the powers conferred by s 110A(8) (as added, substituted and amended; prospectively further amended) (see note 4 supra): see s 110AA(2)(b)(ii) (as added: see note 11 supra).

18 Ibid s 110AA(2)(b)(ii) (as added: see note 11 supra).

19 Ibid s 110AA(3)(a) (as added: see note 11 supra).

20 Ibid s 110AA(3)(b) (as added: see note 11 supra).

21 Ibid s 110AA(3)(c) (as added: see note 11 supra).

22 Ibid s 110AA(3)(d) (as added: see note 11 supra).

23 Ibid s 110AA(4) (as added: see note 11 supra).

24 Ibid s 110AA(5)(a) (as added: see note 11 supra).

25 'Private information', in relation to an authority administering housing benefit or council tax benefit, means any information held by a person who is not entitled to disclose it to that authority except in compliance with a requirement imposed by the authority in exercise of its statutory powers: ibid s 110AA(7) (as added: see note 11 supra).

26 Ibid s 110AA(5)(b) (as added: see note 11 supra).

27 Ibid s 110AA(5) (as added: see note 11 supra). A consent for these purposes may be given in relation to a particular case, or in relation to any case that falls within a particular description of cases: s 110AA(6) (as so added).

B. INFORMATION

391. Supply of information to authorities administering benefit. Information relating to social security, child support or war pensions, or employment or training[1], which is held:

(1) by the Secretary of State[2] or the Northern Ireland Department[3]; or

(2) by a person providing services to the Secretary of State or the Northern Ireland Department in connection with the provision of those services[4],

may be supplied to an authority administering housing benefit or council tax benefit[5], or a person authorised to exercise any function[6] of such an authority relating to such benefit, for use in the administration of that benefit[7]. Where, however, such information has been supplied to the Secretary of State, the Northern Ireland Department or the person providing certain specified services[8], it may only be supplied to such an authority or authorised person[9]:

(a) for use in the prevention, detection, investigation or prosecution of offences relating to housing benefit or council tax benefit[10]; or

(b) for use in checking the accuracy of information relating to housing benefit or to council tax benefit and (where appropriate) amending or supplementing such information[11].

The Secretary of State or the Northern Ireland Department may impose conditions on the use of such information[12]; and may charge a reasonable fee in respect of the cost of supplying such information[13]. Where such information is supplied to an authority or other person, the authority or other person must have regard to it in the exercise of any function relating to housing benefit or council tax benefit[14].

Such information must not be supplied by the recipient to any other person or body unless:

(i) it is supplied by an authority to a person authorised to exercise any function of the authority relating to housing benefit or council tax benefit[15], or by a person authorised to exercise any function of an authority relating to such benefit to the authority[16];

(ii) it is supplied for the purposes of any civil or criminal proceedings relating to the Social Security Contributions and Benefits Act 1992[17], the Jobseekers Act 1995[18], the Social Security Administration Act 1992[19], or any provision of Northern Ireland legislation corresponding to any of them[20]; or

(iii) it is supplied under provisions of the Social Security Administration Act 1992 which govern the supply of information by or between authorities administering benefit[21].

1 Social Security Administration Act 1992 s 122C(1) (s 122C added by the Social Security Administration (Fraud) Act 1997 s 3; and the Social Security Administration Act 1992 s 122C(1) amended by the Employment Act 2002 s 50, Sch 6 para 2(a)). For these purposes, 'war pension' has the same meaning as in the Social Security Act 1989 s 25 (see WAR AND ARMED CONFLICT vol 49(1) (2005 Reissue) para 595): Social Security Administration Act 1992 s 122C(8) (s 122C as so added; s 122C(8) added by the Employment Act 2002 Sch 6 para 2(b)).

2 As to the Secretary of State see para 228 ante.

3 Social Security Administration Act 1992 s 122C(1)(a) (as added: see note 1 supra). As to the meaning of 'the Northern Ireland Department' see s 191 (definition substituted by the Employment Act 2002 s 53, Sch 7 paras 8, 16).

4 Social Security Administration Act 1992 s 122C(1)(b) (as added: see note 1 supra).

5 As to council tax benefit see para 371 et seq ante. As to housing benefit see HOUSING vol 22 (2006 Reissue) para 140 et seq.

6 In the Social Security Administration Act 1992 ss 122C–122E, 126A (as added and amended), any reference to a person authorised to exercise any function of an authority administering housing benefit or council tax benefit includes a reference to a person providing services to such an authority which relate to such a benefit; and any reference to the exercise of any function relating to such a benefit includes a reference to the provision of any services so relating: Welfare Reform and Pensions Act 1999 s 79, Sch 8 para 34(1), (2)(b), (c), (3).

7 Social Security Administration Act 1992 s 122C(2) (as added: see note 1 supra).

As from a day to be appointed under the Welfare Reform Act 2007 s 70(2), the Social Security Administration Act 1992 s 122C(2) (as added) is amended so that information may also be supplied as mentioned in the text 'for the purposes of anything the authority is permitted to do in relation to any other benefit by virtue of s 110A (as added, substituted and amended; prospectively further amended) (see para 390 ante) or s 116A (prospectively added) (local authority powers to prosecute benefit fraud) (see SOCIAL SECURITY AND PENSIONS): s 122C(2) (as so added; prospectively amended by the Welfare Reform Act 2007 s 48(1)(a)). However, at the date at which this volume states the law, no such day had been appointed.

8 Ie under the Social Security Administration Act 1992 s 122 (as substituted and amended) or s 122B (as added and amended) (see SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) para 402): see s 122C(3) (as added: see note 1 supra).

9 Ibid s 122C(3) (as added: see note 1 supra).

10 Ibid s 122C(3)(a) (as added: see note 1 supra).

As from a day to be appointed under the Welfare Reform Act 2007 s 70(2), the Social Security Administration Act 1992 s 122C(3)(a) (as added) is amended so that the words 'offences relating to housing benefit or council tax benefit' become a reference to 'benefit offences within the meaning of

Pt VI (ss 109A–121DA) (as amended) (see paras 389–390 ante, 396 post)': see s 122C(3)(a) (as so added; prospectively amended by the Welfare Reform Act 2007 s 48(1)(b)). However, at the date at which this volume states the law, no such day had been appointed.

For the purposes of the Social Security Administration Act 1992 Pt VI (as amended), 'benefit offence' means: (1) any criminal offence in connection with a claim for a relevant social security benefit; (2) any criminal offence in connection with the receipt or payment of any amount by way of such a benefit; (3) any criminal offence committed for the purpose of facilitating the commission, whether or not by the same person, of a benefit offence; (4) any attempt or conspiracy to commit a benefit offence: s 121DA(5) (s 121DA added by the Child Support, Pensions and Social Security Act 2000 s 67, Sch 6 paras 1, 8; definition substituted by the Social Security Fraud Act 2001 s 1(1), (7)). 'Relevant social security benefit' means a benefit under any provision of the relevant social security legislation: Social Security Administration Act 1992 s 121DA(7) (s 121DA as so added; definition added by the Social Security Fraud Act 2001 s 1(1), (8)). For the meaning of 'relevant social security legislation' for these purposes see SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) para 401.

11 Social Security Administration Act 1992 s 122C(3)(b) (as added: see note 1 supra).

12 Ibid s 122C(4)(a) (as added: see note 1 supra).

13 Ibid s 122C(4)(b) (as added: see note 1 supra).

14 Ibid s 122C(5) (as added: see note 1 supra).

15 Ibid s 122C(6)(a)(i) (as added: see note 1 supra).

16 Ibid s 122C(6)(a)(ii) (as added: see note 1 supra).

17 See SOCIAL SECURITY AND PENSIONS.

18 See SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) para 258 et seq.

19 See SOCIAL SECURITY AND PENSIONS.

20 Social Security Administration Act 1992 s 122C(6)(b) (as added: see note 1 supra).

As from a day to be appointed under the Welfare Reform Act 2007 s 70(2), the Social Security Administration Act 1992 s 122C(6)(b) (as added) is amended so that the Welfare Reform Act 2007 Pt 1 (ss 1–29) (see SOCIAL SECURITY AND PENSIONS) is added to the list of Acts in relation to which information may be supplied for the purposes of any civil or criminal proceedings: see s 122C(6)(b) (as so added; prospectively amended by the Welfare Reform Act 2007 s 28(1), Sch 3 para 10(1), (15)). However, at the date at which this volume states the law, no such day had been appointed.

21 Social Security Administration Act 1992 s 122C(6)(c) (as added: see note 1 supra). The text refers to the provisions of s 122D (as added and amended; prospectively further amended) (see para 392 post) or s 122E (as added and amended; prospectively further amended) (see para 393 post): see s 122C(6)(c) (as so added). Section 122C (as added and amended; prospectively further amended) does not limit the circumstances in which information may be supplied apart from its provisions (in particular by reason of s 122(4) (as substituted and amended) (see SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) para 402) or s 122B(4) (as added) (see SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) para 402)): s 122C(7) (as so added).

392. Supply of information by authorities administering benefit. The Secretary of State[1] or the Northern Ireland Department[2] may require[3]:

(1) an authority administering housing benefit or council tax benefit[4]; or

(2) a person authorised to exercise any function[5] of such an authority relating to such a benefit[6],

to supply benefit administration information[7] held by the authority or other person to, or to a person providing services to, the Secretary of State or the Northern Ireland Department for use for any purpose relating to social security, child support or war pensions, or employment or training, private pensions policy or retirement planning[8].

The Secretary of State or the Northern Ireland Department may require[9]:

(a) an authority administering housing benefit or council tax benefit[10]; or

(b) a person authorised to exercise any function of such an authority relating to such a benefit[11],

to supply benefit policy information[12] held by the authority or other person to, or to a person providing services to, the Secretary of State or the Northern Ireland Department[13].

Such information must be supplied in such manner and form, and in accordance with such requirements, as may be specified in directions given by the Secretary of State or, as the case may be, the Northern Ireland Department[14].

1 As to the Secretary of State see para 228 ante.

2 As to the meaning of 'the Northern Ireland Department' see the Social Security Administration Act 1992 s 191 (definition substituted by the Employment Act 2002 s 53, Sch 7 paras 8, 16).

3 Social Security Administration Act 1992 s 122D(1) (s 122D added by the Social Security Administration (Fraud) Act 1997 s 3).

4 Social Security Administration Act 1992 s 122D(1)(a) (as added: see note 3 supra). As to council tax benefit see para 371 et seq ante. As to housing benefit see HOUSING vol 22 (2006 Reissue) para 140 et seq.

5 As to references to a person authorised to exercise any functions of an authority see para 391 note 6 ante.

6 Social Security Administration Act 1992 s 122D(1)(b) (as added: see note 3 supra).

7 'Benefit administration information', in relation to an authority or other person, means any information which is relevant to the exercise of any function relating to housing benefit or council tax benefit by the authority or other person: Social Security Administration Act 1992 s 122D(4) (as added: see note 3 supra).

As from a day to be appointed under the Welfare Reform Act 2007 s 70(2), the Social Security Administration Act 1992 s 122D(4) (as added) is substituted by a definition of 'relevant benefit information', which means, in relation to an authority or other person, any information which is relevant to the exercise of any function relating to a relevant social security benefit by the authority or other person: see s 122D(4) (as so added; prospectively substituted by the Welfare Reform Act 2007 s 48(2)(c)). For these purposes, 'relevant social security benefit' has the same meaning as in the Social Security Administration Act 1992 s 121DA (as added) (see para 391 note 10 ante): see s 122D(6) (s 122D as so added; s 122D(6) added by the Pensions Act 2004 s 236, Sch 10 paras 3(1), (4); definition prospectively added by the Welfare Reform Act 2007 s 48(2)(e)). However, at the date at which this volume states the law, no such day had been appointed.

8 Social Security Administration Act 1992 s 122D(1) (as added (see note 3 supra); and amended by the Employment Act 2002 s 50, Sch 6 para 3; and the Pensions Act 2004 Sch 10 para 3(1), (2)). 'Private pensions policy' means policy relating to occupational pension schemes or personal pension schemes (within the meaning given by the Pension Schemes Act 1993 s 1 (as amended): see SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) paras 710, 741); and 'retirement planning' means promoting financial planning for retirement: Social Security Administration Act 1992 s 122D(6) (as added: see note 7 supra).

As from a day to be appointed under the Welfare Reform Act 2007 s 70(2), the Social Security Administration Act 1992 s 122D(1) (as added and amended) is further amended by the words 'benefit administration information' being repealed and replaced by the words 'relevant benefit information' (as to which see note 7 supra): see s 122D(1) (as so added and amended; prospectively further amended by the Welfare Reform Act 2007 s 48(2)(a)). However, at the date at which this volume states the law, no such day had been appointed.

9 Social Security Administration Act 1992 s 122D(2) (as added: see note 3 supra).

10 Ibid s 122D(2)(a) (as added: see note 3 supra).

11 Ibid s 122D(2)(b) (as added: see note 3 supra).

12 'Benefit policy information' means any information which may be relevant to the Secretary of State or the Northern Ireland Department in preparing estimates of likely future expenditure on housing benefit or council tax benefit or in developing policy relating to housing benefit or council tax benefit: ibid s 122D(5) (as added: see note 3 supra).

As from a day to be appointed under the Welfare Reform Act 2007 s 70(2), the definition of 'benefit policy information' in the Social Security Administration Act 1992 s 122D(5) (as added) is amended by the words 'housing benefit or council tax benefit' being repealed in both places and replaced by the words 'any relevant social security benefit' (as to which see note 7 supra): see s 122D(5) (as so added; prospectively amended by the Welfare Reform Act 2007 s 48(2)(d)). However, at the date at which this volume states the law, no such day had been appointed.

13 Social Security Administration Act 1992 s 122D(2) (as added: see note 3 supra). Information supplied under s 122D(2) (as added) may be used for any purpose relating to private pensions policy or retirement planning: s 122D(2A) (s 122D as so added; s 122D(2A) added by the Pensions Act 2004 Sch 10 para 3(1), (3)).

As from a day to be appointed under the Welfare Reform Act 2007 s 70(2), the Social Security Administration Act 1992 s 122D(2A) (as added) is amended so that it reads 'information supplied under s 122D(2) (as added), in addition to any other purpose for which the information may be used, may be used for any purpose relating to private pensions policy or retirement planning': see s 122D(2A) (as so added; prospectively amended by the Welfare Reform Act 2007 s 48(2)(b)). However, at the date at which this volume states the law, no such day had been appointed.

14 Social Security Administration Act 1992 s 122D(3) (as added (see note 3 supra); and amended by the Social Security Fraud Act 2001 ss 1(1), 6).

393. Supply of information between authorities administering benefit. Benefit administration information[1] which is held by[2]:

(1) an authority administering housing benefit or council tax benefit[3]; or

(2) a person authorised to exercise any function[4] of such an authority relating to such a benefit[5],

may be supplied to another such authority or person[6]:

(a) for use in the prevention, detection, investigation or prosecution of offences relating to housing benefit or council tax benefit[7]; or

(b) for use in checking the accuracy of information relating to housing benefit or council tax benefit and (where appropriate) amending or supplementing such information[8].

Where such information has been used in amending or supplementing other information, it is lawful for it to be supplied to any person or body to whom that other information could be supplied[9], or used for any purpose for which that other information could be used[10].

1 'Benefit administration information', in relation to an authority or other person, means any information which is relevant to the exercise of any function relating to housing benefit or council tax benefit by the authority or other person: Social Security Administration Act 1992 s 122E(6) (s 122E added by the Social Security Administration (Fraud) Act 1997 s 3). As to council tax benefit see para 371 et seq ante. As to housing benefit see HOUSING vol 22 (2006 Reissue) para 140 et seq.

As from a day to be appointed under the Welfare Reform Act 2007 s 70(2), the Social Security Administration Act 1992 s 122E(6) (as added) is substituted by a definition of 'relevant benefit information', which means, in relation to an authority or other person, any information which is relevant to the exercise of any function relating to a relevant social security benefit (within the meaning of s 121DA (as added) (see para 391 note 10 ante)) by the authority or other person: see s 122E(6) (as so added; prospectively substituted by the Welfare Reform Act 2007 s 48(3)(c)). However, at the date at which this volume states the law, no such day had been appointed.

2 Social Security Administration Act 1992 s 122E(1) (as added: see note 1 supra).

As from a day to be appointed under the Welfare Reform Act 2007 s 70(2), the Social Security Administration Act 1992 s 122E(1) (as added) is amended by the words 'benefit administration information' being repealed and replaced by the words 'relevant benefit information' (as to which see note 1 supra): see s 122E(1) (as so added; prospectively further amended by the Welfare Reform Act 2007 s 48(3)(a)). However, at the date at which this volume states the law, no such day had been appointed.

3 Social Security Administration Act 1992 s 122E(1)(a) (as added: see note 1 supra).

4 As to references to a person authorised to exercise any functions of an authority see para 391 note 6 ante.

5 Social Security Administration Act 1992 s 122E(1)(b) (as added: see note 1 supra).

6 Ibid s 122E(2) (as added: see note 1 supra).

7 Ibid s 122E(2)(a) (as added: see note 1 supra).

As from a day to be appointed under the Welfare Reform Act 2007 s 70(2), the Social Security Administration Act 1992 s 122E(2)(a) (as added) is amended so that the words 'offences relating to housing benefit or council tax benefit' become a reference to 'benefit offences within the meaning of Pt VI (ss 109A–121DA) (as amended) (see para 391 note 10 ante)': see s 122E(2)(a) (as so added; prospectively amended by the Welfare Reform Act 2007 s 48(3)(b)). However, at the date at which this volume states the law, no such day had been appointed.

8 Social Security Administration Act 1992 s 122E(2)(b) (as added: see note 1 supra).

The Secretary of State or the Northern Ireland Department may require such information of a prescribed description to be supplied in prescribed circumstances to another such authority or person for use in the administration of housing benefit or council tax benefit: s 122E(3) (as so added). 'Prescribe' means prescribe by regulations; and 'prescribed' must be construed accordingly: see s 191(1) (definition amended by the Welfare Reform Act 2007 s 40, Sch 5 paras 2, 10). As to the exercise of the power to make regulations, orders and schemes under the Social Security Administration Act 1992 see s 189 (as amended); and SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) para 30. As to the prescribed information which must be supplied, and the circumstances in which it is to be supplied, for the purposes of the Social Security Administration Act 1992 s 122E(3) (as added) see the Council Tax Benefit Regulations 2006, SI 2006/215, reg 97; and the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, SI 2006/216, reg 82; and see para 375 ante. Such information must be supplied in such manner and form, and in accordance with such requirements, as may be specified in directions given by the Secretary of State or, as the case may be, the Northern Ireland Department: Social Security Administration Act 1992 s 122E(4) (as so added; and amended by the

Social Security Fraud Act 2001 ss 1(1), 6). As to the meaning of 'the Northern Ireland Department' see the Social Security Administration Act 1992 s 191 (definition substituted by the Employment Act 2002 s 53, Sch 7 paras 8, 16). As to the Secretary of State see para 228 ante.

9 Social Security Administration Act 1992 s 122E(5)(a) (as added: see note 1 supra).

10 Ibid s 122E(5)(b) (as added: see note 1 supra). Section 122E (as added and amended; prospectively further amended) does not limit the circumstances in which information may be supplied apart from its provisions: s 122E(7) (as so added).

394. Power to require information from landlords and agents. Information supplied to an authority or other person in relation to a claim for housing benefit[1] may be used by the authority or other person only in the exercise of any function relating to housing benefit or council tax benefit[2].

1 Ie under the Social Security Administration Act 1992 s 126A(1) (as added) (see HOUSING vol 22 (2006 Reissue) para 170): see s 126A(7) (as added: see note 2 infra).

2 Ibid s 126A(7) (s 126A added by the Social Security Administration (Fraud) Act 1997 s 11). As to council tax benefit see para 371 et seq ante. As to housing benefit see HOUSING vol 22 (2006 Reissue) para 140 et seq.

395. Disclosure of information by authorities. Until a day to be appointed, the following provisions have effect[1].

Regulations under the Social Security Administration Act 1992[2] may make provision requiring the disclosure by one authority (the 'disclosing authority') to another authority (the 'receiving authority'), in prescribed[3] circumstances, of information of a prescribed description obtained by the disclosing authority in respect of persons who have been entitled to a jobseeker's allowance or to income support[4].

The regulations may in particular provide for:

(1) information to be disclosed: (a) at the request of the receiving authority[5]; (b) at the request of any person who falls within a prescribed category[6]; or (c) otherwise than in response to such a request[7];

(2) the period within which information is to be disclosed[8]; and

(3) information to be disclosed only if it has been obtained by the disclosing authority in the exercise of any of its functions in relation to housing benefit or council tax benefit[9].

1 The Social Security Administration Act 1992 s 128A (as added) is repealed by the Social Security Administration (Fraud) Act 1997 s 22, Sch 2 as from a day to be appointed. However, at the date at which this volume states the law, no such day had been appointed.

2 As to the exercise of the power to make regulations, orders and schemes under the Social Security Administration Act 1992 see s 189 (as amended); and SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) para 30.

3 'Prescribe' means prescribe by regulations; and 'prescribed' must be construed accordingly: see ibid s 191(1) (definition amended by the Welfare Reform Act 2007 s 40, Sch 5 paras 2, 10). As to the prescribed information which must be supplied, and the circumstances in which it is to be supplied, for the purposes of the Social Security Administration Act 1992 s 128A (as added) see the Council Tax Benefit Regulations 2006, SI 2006/215, reg 96; and the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, SI 2006/216, reg 81; and see para 375 ante.

4 Social Security Administration Act 1992 s 128A(1) (s 128A added by the Jobseeker's Act 1995 s 28(2)). See notes 1, 3 supra. As to income support see SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) para 176 et seq. As to income-based jobseeker's allowance see SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) para 271 et seq.

5 Social Security Administration Act 1992 s 128A(2)(a)(i) (as added: see note 4 supra). See notes 1, 3 supra.

6 Ibid s 128A(2)(a)(ii) (as added: see note 4 supra). See notes 1, 3 supra.

7 Ibid s 128A(2)(a)(iii) (as added: see note 4 supra). See notes 1, 3 supra.

8 Ibid s 128A(2)(b) (as added: see note 4 supra). See notes 1, 3 supra.

9 Ibid s 128A(2)(c) (as added: see note 4 supra). See notes 1, 3 supra. As to council tax benefit see para 371 et seq ante. As to housing benefit see HOUSING vol 22 (2006 Reissue) para 140 et seq.

(v) Powers of Secretary of State

A. POWER TO AUTHORISE REPORTS ON ADMINISTRATION OF BENEFIT

396. Persons to report on administration of benefit. The Secretary of State[1] may authorise persons to consider and report to him on the administration by authorities of housing benefit and council tax benefit[2]. The Secretary of State may ask persons so authorised to consider in particular[3]:

(1) authorities' performance in the prevention and detection of fraud relating to housing benefit and council tax benefit[4];

(2) authorities' compliance with the best value requirements of the Local Government Act 1999[5].

A person may be so authorised:

(a) on such terms and for such period as the Secretary of State thinks fit[6];

(b) to act generally or in relation to a specified authority or authorities[7];

(c) to report on administration generally or on specified matters[8].

The matters on which a person may be authorised to consider and report to the Secretary of State under these provisions may be taken to include the carrying out by any individual[9]:

(i) employed by an authority administering housing benefit or council tax benefit[10];

(ii) employed by an authority or joint committee that carries out functions relating to housing benefit or council tax benefit on behalf of the authority administering that benefit[11]; or

(iii) employed by a person authorised by or on behalf of any such authority or joint committee as is mentioned in head (i) or head (ii) above to carry out functions relating to housing benefit or council tax benefit for that authority or committee[12],

of any functions conferred on that individual by virtue of any grant by the Secretary of State of an authorisation for the purposes of Part VI[13] of the Social Security Administration Act 1992[14].

1 As to the Secretary of State see para 228 ante.

2 Social Security Administration Act 1992 s 139A(1) (s 139A added by the Social Security Administration (Fraud) Act 1997 s 5; the Social Security Administration Act 1992 s 139A(1), (2) substituted, and s 139A(2A) added, by the Local Government Act 1999 s 14(1)). As to council tax benefit see para 371 et seq ante. As to housing benefit see HOUSING vol 22 (2006 Reissue) para 140 et seq.

As from a day to be appointed under the Local Government and Public Involvement in Health Act 2007 s 245(5), a person authorised under the Social Security Administration Act 1992 s 139A(1) (s 139A as added, s 139A(1) as substituted) must from time to time, or at such times as the Secretary of State may specify by order, prepare a document setting out what inspections of English authorities he proposes to carry out (an 'inspection programme') and a document setting out the way in which he proposes to carry out his functions of inspecting and reporting on such authorities (an 'inspection framework'): see s 139BA(1) (s 139BA prospectively added by the Local Government and Public Involvement in Health Act 2007 s 150). The person authorised under the Social Security Administration Act 1992 s 139A(1) (s 139A as added, s 139A(1) as substituted) must consult the Audit Commission before preparing an inspection programme or an inspection framework and, once an inspection programme or inspection framework is prepared, send a copy of it both to the Secretary of State and to the Audit Commission: s 139BA(2) (prospectively added). The Secretary of State may by order specify the form that inspection programmes or inspection frameworks must take: s 139BA(3) (prospectively added). A person authorised under s 139A(1) (s 139A as added, s 139A(1) as substituted) must co-operate with the Audit Commission, and may act jointly with the Audit Commission, where it is appropriate to do so for the efficient and effective discharge of the person's functions in relation to English authorities: s 139BA(4) (prospectively added). For these purposes, the 'Audit Commission' means the Audit Commission for Local Authorities and the National Health Service in England; 'English authorities' means authorities administering housing benefit or council tax benefit in England; and 'person' does not

include the Audit Commission: s 139BA(5) (prospectively added). However, at the date at which this volume states the law, no such day had been appointed. As to the Audit Commission for Local Authorities and the National Health Service in England and Wales see LOCAL GOVERNMENT vol 29(1) (Reissue) para 653 et seq. For the meaning of 'England' see para 1 note 2 ante.

3 Ibid s 139A(2) (as added and substituted: see note 2 supra).

4 Ibid s 139A(2)(a) (as added and substituted: see note 2 supra).

5 Ibid s 139A(2)(b) (as added and substituted: see note 2 supra). The text refers to the requirements of the Local Government Act 1999 Pt I (ss 1–29) (as amended) (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 635 et seq): see the Social Security Administration Act 1992 s 139A(2)(b) (as so added and substituted).

6 Ibid s 139A(2A)(a) (as added: see note 2 supra).

7 Ibid s 139A(2A)(b) (as added: see note 2 supra).

8 Ibid s 139A(2A)(c) (as added: see note 2 supra).

9 Ibid s 109A(7) (s 109A added by the Child Support, Pensions and Social Security Act 2000 s 67, Sch 6 paras 1, 2). See also SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) para 401.

10 Social Security Administration Act 1992 s 109A(3)(b) (as added: see note 9 supra).

11 Ibid s 109A(3)(c) (as added: see note 9 supra).

12 Ibid s 109A(3)(d) (as added: see note 9 supra). As to references to a person authorised to exercise any functions of an authority see para 391 note 6 ante.

13 Ie for the purposes of ibid Pt VI (ss 109A–121DA) (as amended) (see paras 389–390 ante; and see SOCIAL SECURITY AND PENSIONS): see s 109A(7) (as added: see note 9 supra).

14 Ibid s 109A(7) (as added: see note 9 supra).

397. Powers of investigation in relation to the administration of benefit. A person authorised to consider and report on the administration by authorities of housing benefit and council tax benefit[1]:

(1) has a right of access at all reasonable times to any document[2] relating to the administration of benefit[3];

(2) is entitled to require from any person holding or accountable for any such document such information and explanation as he thinks necessary[4]; and

(3) is entitled, if he thinks it necessary, to require any such person to produce any such document or to attend before him in person to give such information or explanation[5].

A person so authorised is entitled to require any officer or member of an authority or any person involved in the administration of benefit for an authority[6]:

(a) to give him such information and explanation relating to the administration of benefit as he thinks necessary[7]; and

(b) if he thinks it necessary, to require any such person to attend before him in person to give the information or explanation[8].

A person who without reasonable excuse fails to comply with any such requirement is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale[9].

A person so authorised may: (i) require any document or information which is to be so given to him to be given in any form reasonably specified by him[10]; and (ii) take copies of any document produced to him[11].

1 Security Administration Act 1992 s 139B(1) (s 139B added by the Social Security Administration (Fraud) Act 1997 s 5). The text refers to a person authorised under the Social Security Administration Act 1992 s 139A(1) (as added and substituted) (see para 396 ante): see s 139B(1) (as so added). As to council tax benefit see para 371 et seq ante. As to housing benefit see HOUSING vol 22 (2006 Reissue) para 140 et seq.

2 For these purposes, 'document' means anything in which information of any description is recorded: see ibid s 139B(5) (as added: see note 1 supra).

3 Ibid s 139B(1)(a) (as added: see note 1 supra).

4 Ibid s 139B(1)(b) (as added: see note 1 supra).

5 Ibid s 139B(1)(c) (as added: see note 1 supra).

6 Ibid s 139B(2) (as added: see note 1 supra).

7 Ibid s 139B(2)(a) (as added: see note 1 supra).

8 Ibid s 139B(2)(b) (as added: see note 1 supra).
9 Ibid s 139B(3) (as added: see note 1 supra). As to the standard scale see para 70 note 11 ante.
10 Ibid s 139B(4)(a) (as added: see note 1 supra).
11 Ibid s 139B(4)(b) (as added: see note 1 supra).

398. Reports on the administration of benefit. A report about an authority by a person authorised to consider and report on the administration by authorities of housing benefit and council tax benefit[1] may include recommendations about improvements which could be made by that authority in its administration of that benefit[2] and, in particular, in the prevention and detection of fraud relating to benefit[3] or for the purposes of complying with the best value requirements of the Local Government Act 1999[4].

When the Secretary of State[5] receives a report about an authority from a person so authorised, he must send a copy to the authority[6].

1 Ie a person authorised under the Social Security Administration Act 1992 s 139A(1) (as added and substituted) (see para 396 ante): see s 139C(1) (as added and amended: see note 2 infra). As to council tax benefit see para 371 et seq ante. As to housing benefit see HOUSING vol 22 (2006 Reissue) para 140 et seq.
2 Ibid s 139C(1) (s 139C added by the Social Security Administration (Fraud) Act 1997 s 5; the Social Security Administration Act 1992 s 139C(1) amended by the Local Government Act 1999 s 14(2)).
3 Social Security Administration Act 1992 s 139C(1)(a) (s 139C as added (see note 2 supra); s 139C(1)(a), (b) added by the Local Government Act 1999 s 14(2)).
4 Social Security Administration Act 1992 s 139C(1)(b) (as added: see note 3 supra). The text refers to the requirements of the Local Government Act 1999 Pt I (ss 1–29) (as amended) (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 635 et seq): see the Social Security Administration Act 1992 s 139C(1)(b) (as so added).
5 As to the Secretary of State see para 228 ante.
6 Social Security Administration Act 1992 s 139C(2) (as added: see note 2 supra).

B. POWER TO AUTHORISE BENEFIT ADMINISTRATION STUDIES

399. Benefit administration studies for the Secretary of State. The Secretary of State[1] may request the Audit Commission for Local Authorities and the National Health Service in England and Wales (the 'Commission')[2] to conduct or assist the Secretary of State in conducting studies designed to improve economy, efficiency, effectiveness and quality of performance in the discharge by local authorities[3] of functions relating to the administration of housing benefit and council tax benefit[4]. The Secretary of State may not exercise this power in relation to a county council, county borough council or community council in Wales[5].

If the Commission requires a local authority included in a study[6], or an officer or member of such an authority, to supply the Commission or an authorised person[7] with such information as is needed for the purposes of the study, the authority or officer or member must supply the information[8]. If the Commission requires a local authority included in a study to make available for inspection by the Commission or an authorised person documents which relate to the authority and are needed for the purposes of the study, the authority must make the documents available[9]. Any information obtained under such a requirement may be disclosed by the Commission to the Secretary of State for the purposes of any of his functions which are connected with housing benefit or council tax benefit[10].

The Commission must send to the Secretary of State a copy of any report of a study; and the Secretary of State or the Commission may send a copy of a report of a study to any local authority to which the study relates[11]. Any report of a study may be published by the Secretary of State in conjunction with the Commission[12]. The Commission must not conduct, or assist the Secretary of State in conducting, a study unless before it does

so the Secretary of State has made arrangements for the payment of such reasonable amount as may be agreed between him and the Commission in respect of the study[13].

The Auditor General for Wales[14] may, at the request of the Secretary of State, conduct, or assist the Secretary of State in conducting, 'benefit administration studies'[15], which are studies designed to enable recommendations to be made for improving economy, efficiency, and effectiveness and quality of performance in the discharge by one or more local authorities in Wales of functions relating to the administration of housing benefit or council tax benefit (or both)[16]. Any information obtained in the course of a benefit administration study may be disclosed by the Auditor General for Wales to the Secretary of State for the purposes of any functions of the Secretary of State which are connected with housing benefit or council tax benefit[17].

The Auditor General for Wales must send to the Secretary of State a copy of a report of a benefit administration study carried out by the Auditor General for Wales[18]. The Secretary of State or the Auditor General for Wales may send a copy of a report of a benefit administration study to any local authority to which the study relates[19]. The Secretary of State may publish a report of a benefit administration study in conjunction with the Auditor General for Wales[20]. The Auditor General for Wales may conduct, or assist the Secretary of State in conducting, a benefit administration study only if the Secretary of State has made arrangements for the payment to the Auditor General for Wales of a fee in respect of the study[21]. The amount of the fee must be a reasonable amount agreed between the Secretary of State and the Auditor General for Wales[22].

1 As to the Secretary of State see para 228 ante.
2 As to the Audit Commission for Local Authorities and the National Health Service in England and Wales see LOCAL GOVERNMENT vol 29(1) (Reissue) para 653 et seq. For the meanings of 'England' and 'Wales' see para 1 note 2 ante.
3 For the meaning of 'local authority' see the Local Government Act 1972 s 270(1) (as amended) (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 24); definition applied by virtue of the Audit Commission Act 1998 s 53(2).
4 Ibid ss 38(1), 53(1). The studies mentioned in the text are referred to under the Public Audit (Wales) Act 2004 as 'benefit administration studies': see the text and notes 14–16 infra. As to council tax benefit see para 371 et seq ante. As to housing benefit see HOUSING vol 22 (2006 Reissue) para 140 et seq.
5 Audit Commission Act 1998 s 38(1A) (added by the Public Audit (Wales) Act 2004 s 66, Sch 2 paras 21, 26). As to the provisions relating to Wales see the text and notes 14–22 infra. As to local government areas and authorities in Wales and their councils generally see LOCAL GOVERNMENT vol 29(1) (Reissue) para 41 et seq.
6 In the Audit Commission Act 1998 s 38(3)–(9), 'study' means a study which the Commission is requested to conduct, or assist the Secretary of State in conducting, under s 38(1) (see the text and notes 1–4 supra): s 38(2).
7 In ibid s 38(3), (4), 'authorised person' means a person authorised by the Commission for the purposes of s 38 (as amended): s 38(6).
8 Ibid s 38(3).
9 Ibid s 38(4).
10 Ibid s 38(5).
11 Ibid s 38(7).
12 Ibid s 38(8).
13 Ibid s 38(9).
14 As to the Auditor General for Wales see CONSTITUTIONAL LAW AND HUMAN RIGHTS.
15 Public Audit (Wales) Act 2004 s 45(1).
16 Ibid s 45(2).
17 Ibid s 45(3).
18 Ibid s 45(4).
19 Ibid s 45(5).
20 Ibid s 45(6).
21 Ibid s 45(7).
22 Ibid s 45(8).

400. References and reports to the Secretary of State. The Audit Commission for Local Authorities and the National Health Service in England and Wales (the 'Commission')[1] or an auditor[2] may refer to the Secretary of State[3] any matter arising from an audit or study under the Audit Commission Act 1998 if it appears that it may be relevant for the purposes of any of the functions of the Secretary of State relating to social security[4]. The Commission may send to the Secretary of State a copy of any report of which a copy is sent to the Commission[5] and which contains observations on the administration by a local authority[6] of housing benefit or council tax benefit[7].

The Auditor General for Wales[8] may refer to the Secretary of State any matter arising from an audit or study under Part 2 of the Public Audit (Wales) Act 2004[9] if it appears that the matter may be relevant for the purposes of any of the functions of the Secretary of State relating to social security[10]. An auditor[11] may refer to the Secretary of State any matter arising from an audit[12] if it appears that the matter may be relevant for the purposes of any of the functions of the Secretary of State relating to social security[13]. The Auditor General for Wales may send to the Secretary of State a copy of any report of which a copy is sent to the Auditor General for Wales[14] and which contains observations on the administration by a local authority in Wales[15] of housing benefit or council tax benefit[16].

1 As to the Audit Commission for Local Authorities and the National Health Service in England and Wales see LOCAL GOVERNMENT vol 29(1) (Reissue) para 653 et seq. For the meanings of 'England' and 'Wales' see para 1 note 2 ante.

2 For these purposes, 'auditor', in relation to the accounts of any body, means (except in the Audit Commission Act 1998 s 31(1) (companies related to Passenger Transport Executives): see LOCAL GOVERNMENT vol 29(1) (Reissue) para 662) the person or any of the persons appointed by the Commission to act as auditor in relation to those accounts and, to the extent provided by s 3(11), includes a person assisting an auditor under arrangements approved under s 3(9) (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 663): s 53(1).

3 As to the Secretary of State see para 228 ante.

4 Audit Commission Act 1998 ss 39(1), 53(1). As to the functions of the Secretary of State relating to social security see SOCIAL SECURITY AND PENSIONS.

5 Ie under ibid s 10(2) (as amended) (transmission and consideration of immediate and other reports in the public interest) (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 668): see s 39(2).

6 As to the meaning of 'local authority' see para 399 note 3 ante.

7 Audit Commission Act 1998 s 39(2). As to council tax benefit see para 371 et seq ante. As to housing benefit see HOUSING vol 22 (2006 Reissue) para 140 et seq.

8 As to the Auditor General for Wales see CONSTITUTIONAL LAW AND HUMAN RIGHTS.

9 Ie the Public Audit (Wales) Act 2004 Pt 2 (ss 12–59) (as amended) (see LOCAL GOVERNMENT): see s 51(1).

10 Ibid s 51(1).

11 For these purposes, 'auditor', in relation to accounts of a body, means a person appointed by the Auditor General for Wales under ibid s 13 (see LOCAL GOVERNMENT) to act as auditor of those accounts and, to the extent provided by s 15(3) (persons to assist auditors) (see LOCAL GOVERNMENT), includes a person assisting an auditor appointed under s 13 under arrangements approved under s 15(1) (see LOCAL GOVERNMENT): see s 59(1), (2).

12 Ie under ibid Pt 2 Ch 1 (ss 12–40) (as amended) (see LOCAL GOVERNMENT): see s 51(2).

13 Ibid s 51(2).

14 Ie under ibid s 22(5) or (6) (transmission and consideration of immediate and other reports in the public interest) (see LOCAL GOVERNMENT): see s 51(3).

15 'Local authority in Wales' means a county council, county borough council or community council in Wales: see ibid s 59(5). As to local government areas and authorities in Wales and their councils generally see LOCAL GOVERNMENT vol 29(1) (Reissue) para 41 et seq.

16 Ibid s 51(3).

401. Supply of benefit information to the Audit Commission or the Auditor General for Wales. The Secretary of State[1] may supply to the Audit Commission for Local Authorities and the National Health Service in England and Wales (the

'Commission')[2] any information held by him which relates to housing benefit or council tax benefit[3] and which appears to him to be relevant to the exercise of any function of the Commission[4].

Similarly, the Secretary of State may supply to the Auditor General for Wales[5] any information held by the Secretary of State which relates to housing benefit or council tax benefit and which appears to the Secretary of State to be relevant to the exercise of any function of the Auditor General for Wales[6].

1 As to the Secretary of State see para 228 ante.
2 As to the Audit Commission for Local Authorities and the National Health Service in England and Wales see LOCAL GOVERNMENT vol 29(1) (Reissue) para 653 et seq. For the meanings of 'England' and 'Wales' see para 1 note 2 ante.
3 As to council tax benefit see para 371 et seq ante. As to housing benefit see HOUSING vol 22 (2006 Reissue) para 140 et seq.
4 Audit Commission Act 1998 s 50.
5 As to the Auditor General for Wales see CONSTITUTIONAL LAW AND HUMAN RIGHTS.
6 Public Audit (Wales) Act 2004 s 55.

C. POWER TO MAKE AND ENFORCE DIRECTIONS FOLLOWING REPORT

402. Directions by the Secretary of State. Where a copy of a report on the administration of housing benefit and council tax benefit[1] has been sent to an authority[2], the Secretary of State may invite the authority to consider the report and to submit proposals for improving its performance in relation to the prevention and detection of fraud relating to housing benefit or council tax benefit or otherwise in relation to the administration of that benefit and for remedying any failings identified by the report[3].

After considering the report and any proposals made by the authority in response to it, the Secretary of State may give directions to the authority as to standards which the authority is to attain in the prevention and detection of fraud relating to housing benefit or council tax benefit or otherwise in the administration of that benefit and as to the time within which the standards are to be attained[4]. When giving such directions to an authority[5], the Secretary of State may make recommendations to the authority setting out any course of action which he thinks it might take to attain the standards which it is directed to attain[6].

As from a day to be appointed[7], if the Secretary of State proposes to give such a direction to an authority[8], he must give the authority to which the direction is to be addressed an opportunity to make representations about the proposed direction[9]. The Secretary of State may specify a period within which such representations must be made[10], and he may extend a period so specified[11].

Also as from a day to be appointed[12], the Secretary of State may at any time vary or revoke any such direction given to an authority[13]. A direction may be varied or revoked only if the Secretary of State thinks it is necessary to do so in consequence of representations made by the authority to which the direction is addressed, to rectify an omission or error, or in consequence of a material change in circumstances[14]. However, the Secretary of State must not vary a direction unless he first sends a copy of the proposed variation to the authority concerned, gives the authority his reasons for making the variation, and gives the authority an opportunity to make representations about the proposed variation[15].

Where the Secretary of State has given directions to an authority administering housing benefit and council tax benefit[16], he may require the authority to supply to him any information which he considers may assist him in deciding whether the authority has attained the standards which it has been directed to attain or whether it is likely to attain those standards within the time specified in the directions[17]. Such information must be supplied in such manner and form as the Secretary of State may require[18].

1 As to council tax benefit see para 371 et seq ante. As to housing benefit see HOUSING vol 22 (2006 Reissue) para 140 et seq.

2 Ie under any of heads (1) to (4) infra. The Social Security Administration Act 1992 s 139D (as added and amended) applies where:

(1) a copy of a report has been sent to an authority under s 139C(2) (as added) (see para 398 ante) (s 139D(1)(a) (s 139D added by the Social Security Administration (Fraud) Act 1997 s 8));

(2) a copy of a report has been sent to an authority under the Audit Commission Act 1998 s 10(1) (immediate and other reports in the public interest) (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 668) and to the Secretary of State under s 39 (see para 400 ante) (Social Security Administration Act 1992 s 139D(1)(b) (as so added; amended by the Audit Commission Act 1998 s 54(1), Sch 3 para 23(2)));

(3) a copy of a report has been sent to an authority under the Public Audit (Wales) Act 2004 s 22(5) or (6) (immediate and other reports in the public interest) (see LOCAL GOVERNMENT) and to the Secretary of State under s 51(3) (see para 400 ante) (Social Security Administration Act 1992 s 139D(1)(ba) (s 139D as so added; s 139D(1)(ba) added by the Public Audit (Wales) Act 2004 s 66, Sch 2 para 15(1), (2)));

(4) a copy of a report has been sent to an authority under the Audit Commission Act 1998 s 38(7) or the Public Audit (Wales) Act 2004 s 45(5) (see para 399 ante) (Social Security Administration Act 1992 s 139D(1)(d) (as so added; amended by the Audit Commission Act 1998 Sch 3 para 23(3); and the Public Audit (Wales) Act 2004 Sch 2 para 15(1), (3))).

As to the Secretary of State see para 228 ante.

As from a day to be appointed under the Welfare Reform Act 2007 s 70(2), the Social Security Administration Act 1992 s 139D(1)(ca) is added by the Welfare Reform Act 2007 s 39(1), (3) so that, in addition to heads (1) to (4) supra, the Social Security Administration Act 1992 s 139D (as added and amended) applies where a copy of a report has been sent to a local authority under the Local Government Act 1999 s 13A(3) (as added) and to the Secretary of State under s 13A(4A) (prospectively added) (see LOCAL GOVERNMENT): see the Social Security Administration Act 1992 s 139D(1)(ca) (prospectively added by the Welfare Reform Act 2007 s 39(1), (3)). However, at the date at which this volume states the law, no such day had been appointed.

As from a day to be appointed under the Local Government and Public Involvement in Health Act 2007 s 245(5), the Social Security Administration Act 1992 s 139D(1)(bb) is added by the Local Government and Public Involvement in Health Act 2007 s 147(2) so that the Social Security Administration Act 1992 s 139D (as added and amended) also applies where a copy of a report has been sent to a local authority under the Local Government Act 1999 s 13(3) (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 647) and to the Secretary of State under s 13(4A) (prospectively added): see the Social Security Administration Act 1992 s 139D(1)(bb) (prospectively added by the Local Government and Public Involvement in Health Act 2007 s 147(2)). However, at the date at which this volume states the law, no such day had been appointed.

3 Social Security Administration Act 1992 s 139D(2), (5) (as added: see note 2 supra).

As from a day to be appointed under the Welfare Reform Act 2007 s 70(2), the Social Security Administration Act 1992 s 139D(2) (as added) is amended, and s 139D(2A)–(2C) added, by the Welfare Reform Act 2007 s 39(1), (4), (5) so that the Social Security Administration Act 1992 s 139D(2) (as added) allows the Secretary of State to 'require' rather than 'invite' the authority to consider the report and to submit proposals as mentioned in the text: see s 139D(2) (as so added; prospectively amended by the Welfare Reform Act 2007 s 39(1), (4)). A requirement under the Social Security Administration Act 1992 s 139D(2) (as added; prospectively amended) may specify any information or description of information to be provided and the form and manner in which the information is to be provided: see s 139D(2A) (s 139D as so added; s 139D(2A)–(2C) prospectively added by the Welfare Reform Act 2007 s 39(1), (5)). The authority must respond to such a requirement before the end of such period (not less than one month after the day on which the requirement is made) as the Secretary of State specifies in the requirement: see the Social Security Administration Act 1992 s 139D(2B) (as so prospectively added). The Secretary of State may extend the period so specified: see s 139D(2C) (prospectively added). However, at the date at which this volume states the law, no such day had been appointed.

4 Ibid s 139D(3), (5) (as added: see note 2 supra).

As from a day to be appointed under the Welfare Reform Act 2007 s 70(2), the Social Security Administration Act 1992 s 139D(3) (as added) is substituted, and s 139D(3A)–(3C) added, by the Welfare Reform Act 2007 s 39(1), (6) so that, after considering the report, any proposals made by the authority in response to it, and any other information he thinks is relevant, the Secretary of State may give directions to the authority under the Social Security Administration Act 1992 s 139D(3A) (prospectively added) or s 139D(3B) (prospectively added) or both: see s 139D(3) (as so added; prospectively substituted by the Welfare Reform Act 2007 s 39(1), (6)). Directions under the Social Security Administration Act 1992 s 139D(3A) (prospectively added) are directions as to standards which the authority is to attain in the prevention and detection of fraud relating to housing benefit or council tax benefit or otherwise in

the administration of benefit and the time within which the standards are to be attained: see s 139D(3A), (5) (s 139D(3A)–(3C) prospectively added by the Welfare Reform Act 2007 s 39(1), (6)). Directions under the Social Security Administration Act 1992 s 139D(3B) (prospectively added) are directions to take such action as the Secretary of State thinks necessary or expedient for the purpose of improving the authority's exercise of its functions in relation to the prevention and detection of fraud relating to housing benefit or council tax benefit or otherwise in relation to the administration of benefit: see s 139D(3B), (5) (as so prospectively added). A direction under s 139D(3B) (prospectively added) may specify the time within which anything is to be done: see s 139D(3C) (as so prospectively added). However, at the date at which this volume states the law, no such day had been appointed.

5 Ie under ibid s 139D(3) (as added; prospectively substituted) (see the text and note 4 supra): see s 139D(4) (as added: see note 2 supra).

6 Ibid s 139D(4) (as added: see note 2 supra).

As from a day to be appointed under the Welfare Reform Act 2007 s 70(2), the Social Security Administration Act 1992 s 139D(4) (as added) is amended so that it refers to directions given to an authority under s 139D(3A) (prospectively added) (see note 4 supra) rather than under s 139D(3) (as added; prospectively substituted) (see the text and note 4 supra): see s 139D(4) (as so added; prospectively amended by the Welfare Reform Act 2007 s 39(1), (7)). However, at the date at which this volume states the law, no such day had been appointed.

7 As from a day to be appointed under the Welfare Reform Act 2007 s 70(2), the Social Security Administration Act 1992 s 139D(4A)–(4E) is added by the Welfare Reform Act 2007 s 39(1), (8). However, at the date at which this volume states the law, no such day had been appointed.

8 Ie a direction under the Social Security Administration Act 1992 s 139D (as added and amended; prospectively further amended) (see the text and notes 1–6 supra): see s 139D(4A) (prospectively added: see note 7 supra).

9 Ibid s 139D(4A) (prospectively added: see note 7 supra). Section 139D(4A)–(4C) (prospectively added) does not apply if the Secretary of State thinks that it is necessary for a direction to be given as a matter of urgency: s 139D(4D) (prospectively added). If the Secretary of State acts under s 139D(4D) (prospectively added) he must give in writing to the authority to which the direction is addressed his reasons for doing so: s 139D(4E) (prospectively added).

10 Ibid s 139D(4B) (prospectively added: see note 7 supra). See note 9 supra.

11 Ibid s 139D(4C) (prospectively added: see note 7 supra). See note 9 supra.

12 As from a day to be appointed under the Welfare Reform Act 2007 s 70(2), the Social Security Administration Act 1992 s 139DA is added by the Welfare Reform Act 2007 s 39(1), (9). However, at the date at which this volume states the law, no such day had been appointed.

13 Social Security Administration Act 1992 s 139DA(1) (prospectively added: see note 12 supra). The text refers to a variation or revocation made in accordance with s 139DA (prospectively added) of a direction given under s 139D (as added and amended; prospectively further amended) (see the text and notes 1–11 supra): see s 139DA(1) (prospectively added).

14 Ibid s 139DA(2) (prospectively added: see note 12 supra).

15 Ibid s 139DA(3) (prospectively added: see note 12 supra). The Secretary of State may specify a period of not less than one month within which such representations as are mentioned in the text must be made: s 139DA(4) (prospectively added). The Secretary of State may extend a period so specified: s 139DA(5) (prospectively added).

16 Ie under ibid s 139D(3) (as added; prospectively substituted) (see the text and note 4 supra): see s 139E(1) (as added: see note 17 infra).

17 Ibid s 139E(1) (s 139E added by the Social Security Administration (Fraud) Act 1997 s 9).

As from a day to be appointed under the Welfare Reform Act 2007 s 70(2), the Social Security Administration Act 1992 s 139E(1) (as added) is amended so that it refers to directions given to an authority under s 139D(3A) or under s 139D(3B) (both prospectively added) (see note 4 supra) rather than under s 139D(3) (as added; prospectively substituted) (see the text and note 4 supra) and the Secretary of State is empowered to require information to be supplied to him which he considers may assist him in deciding whether the authority has attained the standards which it has been directed to attain, whether the authority has taken the action which it has been directed to take, or whether the authority is likely to attain those standards or to take that action within the time specified in the directions: see s 139E(1) (as so added; prospectively amended by the Welfare Reform Act 2007 s 40, Sch 5 paras 2, 5). However, at the date at which this volume states the law, no such day had been appointed.

18 Social Security Administration Act 1992 s 139E(2) (as added: see note 17 supra).

403. Enforcement notices. Where directions have been given to an authority following a report relating to the administration of housing benefit or council tax benefit[1], and the Secretary of State[2] is not satisfied that the authority[3]:

(1) has attained the standards which it has been directed to attain[4]; or

(2) is likely to attain those standards within the time specified in the directions[5],

he may serve on the authority a written notice[6]. The notice must:

(a) identify the directions and state why the Secretary of State is not satisfied as mentioned in head (1) or (2) above[7]; and

(b) require the authority to submit a written response to the Secretary of State within a time specified in the notice[8].

If any person (other than the authority) carrying out work relating to the administration of housing benefit or council tax benefit may be affected by any determination which may be made in order to enforce such directions[9], the authority must[10]:

(i) consult that person before submitting its response[11]; and

(ii) include in its response any relevant observations made by that person[12].

The authority's response must either[13]:

(A) state that the authority has attained the standards, or is likely to attain them within the time specified in the directions, and justify that statement[14]; or

(B) state that the authority has not attained the standards, or is not likely to attain them within that time, and (if the authority wishes) give reasons why a determination[15] should not be made or should not include any particular provision[16].

The notice may relate to any one or more matters covered by the directions[17]; and the serving of such a notice relating to any directions or matter does not prevent the serving of further such notices relating to the same directions or matter[18].

1 Ie where directions have been given to an authority under the Social Security Administration Act 1992 s 139D(3) (as added; prospectively substituted) (see para 402 ante): see s 139F(1) (as added: see note 3 infra). As to council tax benefit see para 371 et seq ante. As to housing benefit see HOUSING vol 22 (2006 Reissue) para 140 et seq.

2 As to the Secretary of State see para 228 ante.

3 Social Security Administration Act 1992 s 139F(1) (s 139F added by the Social Security Administration (Fraud) Act 1997 s 9).

As from a day to be appointed under the Welfare Reform Act 2007 s 70(2), the Social Security Administration Act 1992 s 139F(1) (as added) is amended so that the reference in the text is to directions that the Secretary of State may give to the authority under s 139D(3A) (prospectively added) or s 139D(3B) (prospectively added) (see para 402 note 4 ante) rather than under s 139D(3) (as added; prospectively substituted) (see note 1 supra): see s 139F(1) (as so added; prospectively amended by the Welfare Reform Act 2007 s 40, Sch 5 paras 2, 6(1), (2)(a)). However, at the date at which this volume states the law, no such day had been appointed.

4 Social Security Administration Act 1992 s 139F(1)(a) (as added: see note 3 supra).

5 Ibid s 139F(1)(b) (as added: see note 3 supra). See note 6 infra.

6 Ibid s 139F(1) (as added: see note 3 supra).

As from a day to be appointed under the Welfare Reform Act 2007 s 70(2), the Social Security Administration Act 1992 s 139F(1)(b) (as added) is amended, and s 139F(1)(aa) added, so that the Secretary of State is empowered to serve a written notice under s 139F(1) (as added) as mentioned in the text where he is not satisfied that the authority:

(1) has attained the standards which it has been directed to attain (s 139F(1)(a) (as so added));

(2) has taken the action which it has been directed to take (s 139F(1)(aa) (prospectively added by the Welfare Reform Act 2007 Sch 5 paras 2, 6(1), (2)(b))); or

(3) is likely to attain those standards or take that action within the time specified in the directions (Social Security Administration Act 1992 s 139F(1)(b) (as so added; prospectively amended by the Welfare Reform Act 2007 Sch 5 paras 2, 6(1), (2)(c))).

However, at the date at which this volume states the law, no such day had been appointed.

7 Social Security Administration Act 1992 s 139F(2)(a) (as added: see note 3 supra).

As from a day to be appointed under the Welfare Reform Act 2007 s 70(2), the Social Security Administration Act 1992 s 139F(2)(a) (as added) is amended so the notice referred to in head (a) in the text must identify the directions and state why the Secretary of State is not satisfied as mentioned in s 139F(1)(a) (as added) (see note 6 head (1) supra), s 139F(1)(aa) (prospectively added) (see note 6 head

(2) supra) or s 139F(1)(b) (as added; prospectively amended) (see note 6 head (3) supra): see s 139F(2)(a) (as so added; prospectively amended by the Welfare Reform Act 2007 Sch 5 paras 2, 6(1), (3)).

8 Social Security Administration Act 1992 s 139F(2)(b) (as added: see note 3 supra).

9 Ie any determination which may be made under ibid s 139G (as added; prospectively amended) (see para 404 post): see s 139F(3), (7) (as added: see note 3 supra).

10 Ibid s 139F(3), (7) (as added: see note 3 supra).

11 Ibid s 139F(3)(a) (as added: see note 3 supra).

12 Ibid s 139F(3)(b) (as added: see note 3 supra).

13 Ibid s 139F(4) (as added: see note 3 supra).

As from a day to be appointed under the Welfare Reform Act 2007 s 70(2), the Social Security Administration Act 1992 s 139F(4) (as added) is amended so that it is made conditional on the notice identifying directions under s 139D(3A) (prospectively added) (see para 402 note 4 ante): see s 139F(4) (as so added; prospectively amended by the Welfare Reform Act 2007 Sch 5 paras 2, 6(1), (4)). If the notice identifies directions under the Social Security Administration Act 1992 s 139D(3B) (prospectively added) (see para 402 note 4 ante), the authority's response must either:

(1) state that the authority has taken the action, or is likely to take it within the time specified in the directions, and justify that statement (s 139F(4A)(a) (s 139F(4A) prospectively added by the Welfare Reform Act 2007 Sch 5 paras 2, 6(1), (5))); or

(2) state that the authority has not taken the action, or is not likely to take it within that time, and (if the authority wishes) give reasons why a determination under the Social Security Administration Act 1992 s 139G (as added; prospectively amended) (see para 404 post) should not be made or should not include any particular provision (s 139F(4A)(b) (prospectively added)).

However, at the date at which this volume states the law, no such day had been appointed.

14 Ibid s 139F(4)(a) (as added: see note 3 supra).

15 Ie a determination under ibid s 139G (as added; prospectively amended) (see para 404 post): see s 139F(4)(b) (as added: see note 3 supra).

16 Ibid s 139F(4)(b) (as added: see note 3 supra).

17 Ibid s 139F(5) (as added: see note 3 supra).

18 Ibid s 139F(6) (as added: see note 3 supra).

404. Enforcement determinations. Where, after the time specified in an enforcement notice[1] has expired, the Secretary of State[2] is not satisfied that the authority[3]:

(1) has attained the standards in question[4]; or

(2) is likely to attain those standards within the time specified in the directions[5],

he may make a determination[6].

The determination may be made whether or not the authority has responded to the enforcement notice[7]. The determination must be designed to secure the attainment of the standards in question[8] and must include provision[9] that the authority is to comply with specified requirements as to inviting, preparing, considering and accepting bids to carry out any work[10]:

(a) which falls to be carried out in pursuance of the authority's functions relating to the administration of housing benefit or council tax benefit[11]; and

(b) which is of a description specified in the determination[12].

The determination may also include provision[13] of any one or more of the following kinds relating to the work, or any specified category of the work, to which the determination relates[14]:

(i) provision that it may not be carried out by the authority[15];

(ii) provision that it may not be carried out by any person (other than the authority) who has been carrying it out[16]; and

(iii) provision that any contract made by the authority with any person for carrying it out must include terms requiring a level of performance which will secure, or contribute to securing, the attainment of the standards in question[17].

The provisions included in such a determination[18] take effect from a date specified in the determination[19]. Different dates may be specified in relation to different provisions[20]; and the making of such a determination in relation to any directions does not prevent the making of further such determinations in relation to the same directions[21]. The

provision included in a determination[22] may include[23] requirements that the Secretary of State be satisfied as to any specified matter[24]; and requirements that the Secretary of State authorise or consent to any specified matter[25]. The provision so included may also include provision as to the time at which any contract for the carrying out of work to which the determination relates (and which is not previously discharged) is to be taken to be frustrated by the determination[26]. Such a determination has effect in spite of any enactment under or by virtue of which an authority is required or authorised to carry out any work to which the determination relates[27].

1 Ie the notice under the Social Security Administration Act 1992 s 139F (as added; prospectively amended) (see para 403 ante): see s 139G(1) (as added: see note 3 infra).
2 As to the Secretary of State see para 228 ante.
3 Social Security Administration Act 1992 s 139G(1) (s 139G added by the Social Security Administration (Fraud) Act 1997 s 9).
4 Social Security Administration Act 1992 s 139G(1)(a) (as added: see note 3 supra).
As from a day to be appointed under the Welfare Reform Act 2007 s 70(2), the Social Security Administration Act 1992 s 139G(1)(a) (as added) is amended so that head (1) in the text refers to an authority which has not attained the standards or taken the action in question: see s 139G(1)(a) (as so added; prospectively amended by the Welfare Reform Act 2007 s 40, Sch 5 paras 2, 7(1), (2)(a)). However, at the date at which this volume states the law, no such day had been appointed.
5 Social Security Administration Act 1992 s 139G(1)(b) (as added: see note 3 supra).
As from a day to be appointed under the Welfare Reform Act 2007 s 70(2), the Social Security Administration Act 1992 s 139G(1)(b) (as added) is amended so that head (2) in the text refers to an authority which is not likely to attain those standards or take that action within the time specified in the directions: see s 139G(1)(b) (as so added; prospectively amended by the Welfare Reform Act 2007 Sch 5 paras 2, 7(1), (2)(b)). However, at the date at which this volume states the law, no such day had been appointed.
6 Social Security Administration Act 1992 s 139G(1) (as added: see note 3 supra).
7 Ibid s 139G(2) (as added: see note 3 supra). The text refers to a response that may be made under s 139F (as added; prospectively amended) (see para 403 ante): see s 139G(2) (as so added).
8 Ibid s 139G(3) (as added: see note 3 supra).
As from a day to be appointed under the Welfare Reform Act 2007 s 70(2), the Social Security Administration Act 1992 s 139G(3) (as added) is amended so that it refers to securing the attainment of the standards or the taking of the action in question: see s 139G(3) (as so added; prospectively amended by the Welfare Reform Act 2007 Sch 5 paras 2, 7(1), (3)). However, at the date at which this volume states the law, no such day had been appointed.
9 See the Social Security Administration Act 1992 s 139G(3)(a) (as added: see note 3 supra).
10 Ibid s 139G(4) (as added: see note 3 supra).
11 Ibid s 139G(4)(a), (6) (as added: see note 3 supra). As to council tax benefit see para 371 et seq ante. As to housing benefit see HOUSING vol 22 (2006 Reissue) para 140 et seq.
12 Ibid s 139G(4)(b) (as added: see note 3 supra).
13 See ibid s 139G(3)(b) (as added: see note 3 supra).
14 Ibid s 139G(5) (as added: see note 3 supra).
15 Ibid s 139G(5)(a) (as added: see note 3 supra).
16 Ibid s 139G(5)(b) (as added: see note 3 supra).
17 Ibid s 139G(5)(c) (as added: see note 3 supra).
As from a day to be appointed under the Welfare Reform Act 2007 s 70(2), the Social Security Administration Act 1992 s 139G(5)(c) (as added) is amended so that it refers to securing the attainment of the standards or the taking of the action in question: see s 139G(5)(c) (as so added; prospectively amended by the Welfare Reform Act 2007 Sch 5 paras 2, 7(1), (3)). However, at the date at which this volume states the law, no such day had been appointed.
18 Ie a determination under the Social Security Administration Act 1992 s 139G (as added; prospectively amended) (see the text and notes 1–17 supra): see s 139H(1) (as added: see note 19 infra).
19 Ibid s 139H(1) (s 139H added by the Social Security Administration (Fraud) Act 1997 s 9).
20 Social Security Administration Act 1992 s 139H(1) (as added: see note 19 supra).
21 Ibid s 139H(2) (as added: see note 19 supra).
22 Ie by virtue of ibid s 139G(3) (as added; prospectively amended) (see the text and notes 8–17 supra): see s 139H(3) (as added: see note 19 supra).
23 Ibid s 139H(3) (as added: see note 19 supra).
24 Ibid s 139H(3)(a) (as added: see note 19 supra).
25 Ibid s 139H(3)(b) (as added: see note 19 supra).

26 Ibid s 139H(4) (as added: see note 19 supra).

27 Ibid s 139H(5) (as added: see note 19 supra). A determination under s 139G (as added; prospectively amended) (see the text and notes 1–17 supra) may make provision having effect, in relation to the work to which it relates, instead of any requirement which (apart from the determination) would have effect in relation to that work under or by virtue of the Local Government Act 1988 (exclusion of non-commercial considerations) (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 419 et seq): Social Security Administration Act 1992 s 139H(6) (as so added).

(vi) Council Tax Benefit Subsidy

405. Council tax benefit subsidy. For each year[1], the Secretary of State[2] must pay a subsidy to each authority administering housing benefit or council tax benefit[3].

Accordingly, he must pay council tax benefit subsidy to each billing authority[4].

1 For the meaning of 'year' for these purposes see para 373 note 14 ante.

2 As to the Secretary of State see para 228 ante.

3 Social Security Administration Act 1992 s 140A(1) (s 140A added by the Housing Act 1996 s 121, Sch 12 para 4). As to council tax benefit see para 371 et seq ante. As to housing benefit see HOUSING vol 22 (2006 Reissue) para 140 et seq.

As to any council tax benefit subsidy paid or claimed in respect of any such benefit paid before 1 April 1997 see the Social Security Administration Act 1992 s 140 (repealed with savings).

4 Ibid s 140A(2)(c) (as added: see note 3 supra). For the meaning of 'billing authority' see para 229 ante; definition applied by virtue of s 191 (definition substituted by the Local Government Finance Act 1992 Sch 9 para 25(a)).

In the Social Security Administration Act 1992 ss 140B–140G (as added and amended) (see para 406 et seq post), 'subsidy', without more, refers to subsidy as mentioned in s 140A(2) (as added): see s 140A(3) (as so added). As to rent rebate subsidy payable to each housing authority and rent allowance subsidy payable to each local authority see HOUSING vol 22 (2006 Reissue) para 181 et seq.

406. Calculation of amount of council tax benefit subsidy. The amount of council tax benefit subsidy[1] to be paid to an authority must be determined in accordance with an order made by the Secretary of State[2]. Subject as follows, the amount of such subsidy must be calculated by reference to the amount of relevant benefit[3] paid by the authority during the year[4]. The order may provide that the amount of such subsidy in respect of any matter is to be a fixed sum or is to be nil[5].

The Secretary of State may:

(1) pay as part of such subsidy an additional amount specified by, or calculated in a manner specified by, the order[6]; or

(2) deduct from the amount which would otherwise be payable by way of such subsidy an amount specified by, or calculated in a manner specified by, the order[7].

The additional amounts which may be paid by virtue of head (1) above include amounts in respect of:

(a) the costs of administering the relevant benefit[8]; or

(b) success in preventing or detecting fraud relating to the relevant benefit or action to be taken with a view to preventing or detecting such fraud[9].

Where an application is made by an authority on the Secretary of State's invitation, he may pay to the authority as part of the subsidy such additional amount as he considers appropriate in respect of success in preventing or detecting fraud relating to the relevant benefit or action to be taken with a view to preventing or detecting such fraud[10].

Alternatively, he may deduct from the subsidy which would otherwise be payable to an authority such amount as he considers it unreasonable to pay by way of subsidy[11]. The amounts which may be deducted by the Secretary of State[12] include amounts in respect of a failure to comply with directions[13] and other failures in preventing or

detecting fraud relating to the relevant benefit[14]. Any such additional amount must be a fixed sum specified by, or must be calculated in the manner specified by, an order made by the Secretary of State[15].

The amount of subsidy payable to an authority must be calculated to the nearest pound, disregarding an odd amount of 50 pence or less and treating an odd amount exceeding 50 pence as a whole pound[16].

1 For the meaning of 'subsidy' see para 405 note 4 ante. As to council tax benefit see para 371 et seq ante.

2 Social Security Administration Act 1992 s 140B(1) (ss 140A–140G added by the Housing Act 1996 s 121, Sch 12 para 4; and the Social Security Administration Act 1992 s 140B(1) amended by the Social Security Administration (Fraud) Act 1997 s 22, Sch 1 para 7). As to the Secretary of State see para 228 ante.

Any power under the Social Security Administration Act 1992 Pt VIII (ss 134–140G) (as amended) (see paras 373, 396–398, 402 et seq ante, 407 et seq post) to make provision by order for or in relation to a year does not require the making of a new order each year: see s 140F(1) (as so added). Any order made under the power may be revoked or varied at any time, whether before, during or after the year to which it relates: s 140F(2) (as so added). For the meaning of 'year' for these purposes see para 373 note 14 ante. In exercise of the power so conferred the Secretary of State has made the Income-related Benefits (Subsidy to Authorities) Order 1998, SI 1998/562 (amended by SI 1998/2865; SI 1999/550; SI 2000/1091; SI 2000/2340; SI 2001/2350; SI 2002/1397; SI 2002/1859; SI 2002/3116; SI 2003/3179; SI 2004/646; SI 2005/369; SI 2005/535; SI 2006/54; SI 2006/217; SI 2006/559; SI 2007/26; SI 2007/731; SI 2008/196). See also the Discretionary Housing Payments (Grants) Order 2001, SI 2001/2340 (as amended); and HOUSING vol 22 (2006 Reissue) para 181.

3 For these purposes, 'relevant benefit' means housing benefit or council tax benefit, as the case may be: see the Social Security Administration Act 1992 s 140B(6) (as added: see note 2 supra). As to housing benefit see HOUSING vol 22 (2006 Reissue) para 140 et seq.

4 Ibid s 140B(2) (as added (see note 2 supra); amended by the Social Security Administration (Fraud) Act 1997 s 10, Sch 1 para 7, Sch 2; and the Local Government Act 2003 s 127(1), (2), Sch 7 paras 34, 36(a), Sch 8 Pt 1).

5 Social Security Administration Act 1992 s 140B(3) (as added: see note 2 supra).

6 Ibid s 140B(4)(a) (s 140B as added (see note 2 supra); s 140B(4), (5) substituted by the Social Security Administration (Fraud) Act 1997 s 10).

7 Social Security Administration Act 1992 s 140B(4)(b) (s 140B as added (see note 2 supra); s 140B(4) as substituted (see note 6 supra)).

8 Ibid s 140B(4A)(a) (s 140B as added (see note 2 supra); s 140B(4A), (5A) added by the Social Security Administration (Fraud) Act 1997 s 10).

9 Social Security Administration Act 1992 s 140B(4A)(b) (as added: see note 8 supra).

10 See ibid s 140B(5)(a) (s 140B as added (see note 2 supra); s 140B(5) as substituted (see note 6 supra)).

11 See ibid s 140B(5)(b) (s 140B as added (see note 2 supra); s 140B(5) as substituted (see note 6 supra)).

12 Ie by virtue of ibid s 140B(4)(b) (as added and substituted) (see head (2) in the text) or s 140B(5)(b) (as added and substituted) (see the text and note 11 supra): see s 140B(5A) (as added: see note 8 supra).

13 Ie under ibid s 139D(3) (as added; prospectively substituted) (see para 402 ante): see s 140B(5A) (as added: see note 8 supra).

14 Ibid s 140B(5A) (as added: see note 8 supra).

As from a day to be appointed under the Welfare Reform Act 2007 s 70(2), the Social Security Administration Act 1992 s 140B(5A) (as added) is amended so that the reference in the text is to failure to comply with directions under s 139D(3A) (prospectively added) or s 139D(3B) (prospectively added) (see para 402 note 4 ante) rather than under s 139D(3) (as added; prospectively substituted) (see note 13 supra): see s 140B(5A) (as so added; prospectively amended by the Welfare Reform Act 2007 s 40, Sch 5 paras 2, 9). However, at the date at which this volume states the law, no such day had been appointed.

15 Social Security Administration Act 1992 s 140B(5A) (as added: see note 8 supra). See note 16 infra.

16 Ibid s 140B(8) (as added: see note 2 supra). As to the calculation of subsidy see generally the Income-related Benefits (Subsidy to Authorities) Order 1998, SI 1998/562, Pt III (arts 11–21) (as amended); and as to additions and deductions see in particular arts 18–21 (as amended).

407. Payment of council tax benefit subsidy. Council tax benefit subsidy[1] must be paid by the Secretary of State[2] in such instalments, at such times, in such manner and subject to such conditions as to claims, records, certificates, audit or otherwise as may be

provided by order of the Secretary of State[3]. In particular, conditions may be imposed to obtain information for the purposes of the carrying out by the Secretary of State of any of his functions relating to subsidy[4].

The order may provide that if an authority has not, within such period as may be specified in the order, complied with the conditions so specified as to claims, records, certificate, audit or otherwise, the Secretary of State may estimate the amount of such subsidy payable to the authority and employ for that purpose such criteria as he considers relevant[5]. Where such subsidy has been paid to an authority and it appears to the Secretary of State either that such subsidy has been overpaid, or that there has been a breach of any condition specified in such an order, he may recover from the authority the whole or such part of the payment as he may determine[6]. Without prejudice to other methods of recovery, a sum so recoverable may be recovered by withholding or reducing the subsidy[7].

1 For the meaning of 'subsidy' see para 405 note 4 ante. As to council tax benefit see para 371 et seq ante.
2 As to the Secretary of State see para 228 ante.
3 Social Security Administration Act 1992 s 140C(1) (ss 140C, 140F added by the Housing Act 1996 s 121, Sch 12 para 4). An order so made by the Secretary of State may be made before, during or after the end of the year or years to which it relates: Social Security Administration Act 1992 s 140C(4) (as so added). For the meaning of 'year' for these purposes see para 373 note 14 ante.

Any power under Pt VIII (ss 134–140G) (as amended) (see paras 373 et seq ante, 408 post) to make provision by order for or in relation to a year does not require the making of a new order each year: see s 140F(1) (as so added). Any order made under the power may be revoked or varied at any time, whether before, during or after the year to which it relates: s 140F(2) (as so added). In exercise of the power so conferred the Secretary of State has made the Income-related Benefits (Subsidy to Authorities) Order 1998, SI 1998/562 (amended by SI 1998/2865; SI 1999/550; SI 2000/1091; SI 2000/2340; SI 2001/2350; SI 2002/1397; SI 2002/1859; SI 2002/3116; SI 2003/3179; SI 2004/646; SI 2005/369; SI 2005/535; SI 2006/54; SI 2006/217; SI 2006/559; SI 2007/26; SI 2007/731; SI 2008/196). As to claims for and payment of subsidy see generally the Income-related Benefits (Subsidy to Authorities) Order 1998, SI 1998/562, Pt II (arts 2–10) (as amended); and as to the necessity for a claim see art 4 (amended by SI 2004/646; SI 2005/369; SI 2007/26). See also the Discretionary Housing Payments (Grants) Order 2001, SI 2001/2340 (as amended); and HOUSING vol 22 (2006 Reissue) para 182.
4 Social Security Administration Act 1992 s 140C(1A) (s 140C as added (see note 3 supra); and s 140C(1A) added by the Local Government Act 2003 s 127(1), Sch 7 paras 34, 37).
5 Social Security Administration Act 1992 s 140C(2) (as added: see note 3 supra). As to estimating subsidy see the Income-related Benefits (Subsidy to Authorities) Order 1998, SI 1998/562, art 10.
6 Social Security Administration Act 1992 s 140C(3) (as added: see note 3 supra).
7 Ibid s 140C(3) (as added: see note 3 supra).

408. Financing of joint arrangements relating to benefit. Where two or more authorities make arrangements for the discharge of any of their functions relating to housing benefit or council tax benefit[1] by one authority on behalf of itself and one or more other authorities, or by a joint committee, the Secretary of State[2] may make such payments as he thinks fit to the authority or committee in respect of its expenses in carrying out those functions[3]. The Secretary of State may (without prejudice to the generality of his powers in relation to the amount of subsidy) take into account the fact that an amount has been paid under this provision in respect of expenses which would otherwise have been met in whole or in part by the participating authorities[4].

1 As to council tax benefit see para 371 et seq ante. As to housing benefit see HOUSING vol 22 (2006 Reissue) para 140 et seq.
2 As to the Secretary of State see para 228 ante.
3 Social Security Administration Act 1992 s 140E(1) (s 140E added by the Housing Act 1996 s 121, Sch 12 para 4). The provisions of the Social Security Administration Act 1992 ss 140B, 140C (as added and amended) (subsidy, calculation and supplementary provisions) (see paras 406–407 ante) apply in relation to a payment under s 140E (as added) as in relation to a payment of subsidy: s 140E(2) (as so added). For the meaning of 'subsidy' see para 405 note 4 ante.
4 Ibid s 140E(3) (as added: see note 3 supra).

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